

## Draft Regulation

Educational Childcare Act  
(chapter S-4.1.1)

### Control of lead in water in facilities and private residences where educational childcare is provided

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the control of lead in water in facilities and private residences where educational childcare is provided, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation prescribes standards that educational childcare providers must meet to protect children's health in respect of the water used for drinking and preparing food or beverages that are made available to persons as part of the educational childcare they provide at a facility or a private residence, as applicable.

The draft Regulation introduces in particular the obligation for all educational childcare providers to collect water samples for the purpose of measuring the concentration of lead in the water and to implement corrective measures if that concentration exceeds the drinking water quality standard for lead set out in section 2 of Schedule 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40). Additionally, repeated sampling is provided for in certain circumstances.

The regulatory impact analysis has shown that the changes contemplated may generate costs of approximately \$121,500 for businesses subject to the Regulation for the implementation period and recurring costs of \$83,000 per year for a total of \$536,500 over a 5-year period. For the public, the draft Regulation would ensure the quality of the water consumed by children and by individuals employed by educational childcare providers at the providers' facilities or residence.

Further information on the draft Regulation may be obtained by contacting Daniel Lavigne, department head, Service des lois et de l'accessibilité, Direction de l'encadrement du réseau, Ministère de la Famille, 600, rue Fullum, 6<sup>e</sup> étage, Montréal (Québec) H2K 4S7, telephone: 514 873-7200, extension 86111; email: encadrement@mfa.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Daniel Lavigne, using the contact information above.

SUZANNE ROY  
*Minister of Families*

### Regulation respecting the control of lead in water in facilities and private residences where educational childcare is provided

Educational Childcare Act  
(chapter S-4.1.1, s.106, 1st par., subpars. 3.1, 4, 12, 30 and 31).

#### CHAPTER I GENERAL

**1.** Educational childcare providers must ensure that the water used for drinking or preparing food or beverages that they make available to persons as part of the educational childcare services they provide in a facility or private residence, as applicable, meets the drinking water quality standards relating to lead, specifically the maximum concentration of lead set out in section 2 of Schedule 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40).

Educational childcare providers whose facility or residence, as applicable, is situated north of the 55th parallel, may, instead of complying with Chapters II and III and section 21, choose to install a filter or other water treatment system for lead removal, to be used according to the manufacturer's instructions, on any tap, the water from which is used for drinking or preparing food or beverages that they make available to persons as part of providing educational childcare services.

For the purposes of this Regulation, the word "tap" includes fountains.

#### CHAPTER II SAMPLE COLLECTION, METHOD, ANALYSIS AND RESULTS

##### DIVISION I SAMPLE COLLECTION

**2.** Educational childcare providers must collect samples from the water used for drinking or preparing food or beverages that they make available to persons as part of providing childcare services, in order to verify compliance with drinking water quality standards relating to lead, during the July to September quarter after

(1) *(insert the date of coming into force of this Regulation)*, provided the date of issue of their permit or effective date of recognition as a home educational childcare provider, as applicable, is before that date;

(2) the date of issue of their permit, the date of adding a new facility to their permit or the effective date of recognition as a home educational childcare provider, as applicable, provided that date is after *(insert the date that precedes the date of coming into force of this Regulation)*;

(3) a change of address of a facility that appears on the permit or a change of the address of the residence where the childcare is provided that appears on the notice of acceptance of the person who applied for recognition, as applicable, provided the date of the change of address is after *(insert the date that precedes the date of coming into force of this Regulation)*.

In the case of a permit issued in the July to September quarter, the educational childcare provider must instead proceed to the sample collection referred to in the first paragraph during the July to September quarter of the year that follows the issue of the permit. The same applies, with the necessary modifications, in the case where the addition of a new facility on a permit, the effective date of recognition or the change of address of a facility or residence occurs in the July to September quarter.

**3.** The number of samples required for the sampling carried out pursuant to section 2 is one sample from

(1) each tap in a permit holder's facility, the water from which is used for drinking or preparing food or beverages that the permit holder makes available to persons as part of providing childcare services; or

(2) the main tap in the residence of a home educational childcare provider.

For the purposes of applying this Regulation, a "main tap" is the tap, the water from which is most often used for drinking or preparing food or beverages that the educational childcare provider makes available to persons as part of providing childcare services.

**4.** In addition to the situations referred to in section 2, educational childcare providers must also collect samples of the water used for drinking or preparing food or beverages that they make available to persons as part of providing childcare services, in order to verify compliance with drinking water quality standards relating to lead, at the request of the Minister when the Minister has reasonable cause to believe that the water may contain lead or that a childcare provider has failed to comply with the provisions of this Regulation, in which case the Minister may proceed to the sample collection.

The number of samples required for sampling carried out pursuant to the first paragraph is one sample per tap in the facility or residence, as applicable, water from which must be sampled.

## **DIVISION II**

### **METHOD AND ANALYSIS**

**5.** Educational childcare providers must collect and keep any water sample required under this Regulation in compliance with the provisions of section 1 of Schedule 4 of the Regulation respecting the quality of drinking water, except the provisions of subparagraphs 2, 3 and 5 of the first paragraph of that section, and in compliance with sections 2.1 and 12 of Schedule 4, with the necessary modifications.

**6.** Educational childcare providers must, as soon as possible after the collection of a water sample required under this Regulation, send the sample to a laboratory accredited by the Minister of Sustainable Development, Environment and Parks under section 118.6 of the Environment Quality Act (chapter Q-2) in order to verify the sample's compliance with the drinking water quality standards relating to lead.

Educational childcare providers must also certify, in the manner prescribed by the Minister, that the water sample was collected, kept and sent to an accredited laboratory in compliance with the provisions of this Regulation and send a copy of the certification to the accredited laboratory.

## **DIVISION III**

### **TRANSMISSION AND RETENTION OF DOCUMENTS**

**7.** An educational childcare provider must send a copy of the certification referred to in the second paragraph of section 6 along with a copy of the results of the analysis of the concentration of lead in the water carried out by an accredited laboratory

(1) to the Minister, if the childcare provider is a permit holder; or

(2) to the home educational childcare coordinating office that granted recognition if the childcare provider is a home educational childcare provider.

The home educational childcare coordinating office must send as soon as possible to the Minister a copy of the documents the office receives pursuant to subparagraph 2 of the first paragraph.

The educational childcare provider must keep in the facility or residence where the educational childcare services are provided, as applicable, for as long as services are provided, a copy of the documents sent pursuant to the first paragraph.

### CHAPTER III MONITORING AND CORRECTIVE MEASURES

#### DIVISION I OBLIGATIONS AIMED AT ENSURING MONITORING OF THE CONCENTRATION OF LEAD IN THE WATER

##### *§1. Permit holders*

**8.** If all the water samples collected pursuant to section 2 and referred to in subparagraph 1 of the first paragraph of section 3 meet the drinking water quality standard relating to lead, the permit holder must ensure the monitoring of the concentration of lead in the water in accordance with the second and third paragraphs.

During the July to September quarter of the fifth year following the year during which the permit holder carried out the sample collection referred to in the first paragraph, the permit holder must collect a new water sample only from the facility's main tap.

That sample collection must be carried out every five years provided the concentration of lead in the water meets the drinking water quality standard relating to lead.

**9.** If among the water samples collected pursuant to section 2 and referred to in subparagraph 1 of the first paragraph of section 3, at least one sample fails to meet the drinking water quality standard relating to lead, the permit holder must verify whether the water sample taken from the facility's main tap meets that standard.

If so, the permit holder must collect a new water sample from the main tap during the July to September quarter of the fifth year following the year during which the permit holder carried out the sample collection referred to in section 2.

If not, if at least one other water sample collected from a tap pursuant to section 2 meets the drinking water quality standard relating to lead, the permit holder must collect a new water sample from such a tap during the July to September quarter of the fifth year following the year during which the childcare provider carried out the sample collection referred to in section 2.

That sample collection must be carried out every five years in the cases where water was sampled pursuant to the second or third paragraphs, provided it meets the drinking water quality standard relating to lead.

**10.** If a water sample collected pursuant to the second or third paragraphs of section 8 or the second, third or fourth paragraphs of section 9 fails to meet the drinking water quality standard relating to lead, the permit holder must ensure the monitoring of the concentration of lead in the water in accordance with the second and third paragraphs.

The permit holder must collect samples from all the water taps in the facility that have not yet been the subject of corrective measures or have not been taken out of service under section 15, the water from which is used for drinking or preparing food or beverages that the permit holder makes available to persons as part of providing educational childcare services.

If at least one water sample collected from a tap pursuant to the second paragraph meets the drinking water quality standard relating to lead, the permit holder must collect a new water sample from such a tap during the July to September quarter of the fifth year following the year during which the childcare provider carried out the sample collection referred to in the second paragraph.

That sample collection must be carried out every five years provided the concentration of lead in the water meets the drinking water quality standard relating to lead.

If a water sample collected pursuant to the third or fourth paragraph fails to meet the drinking water quality standard relating to lead, the permit holder must repeat the steps described in the second, third and fourth paragraphs.

##### *§2. Home educational childcare providers*

**11.** If a water sample collected pursuant to section 2 and referred to in subparagraph 2 of the first paragraph of section 3 meets the drinking water quality standard relating to lead, the home educational childcare provider must ensure the monitoring of the concentration of lead in the water in accordance with the second and third paragraphs.

During the July to September quarter of the fifth year following the year during which the home educational childcare provider carried out the sample collection referred to in the first paragraph, the home educational childcare provider must collect a new water sample from the main tap.

That sample collection must be carried out every five years provided the concentration of lead in the water meets the drinking water quality standard relating to lead.

**12.** If a water sample collected pursuant to the second or third paragraph of section 11 fails to meet the drinking water quality standard relating to lead, the home educational childcare provider must ensure the monitoring of the concentration of lead in the water pursuant to the second, third, fourth and fifth paragraphs.

The home educational childcare provider must collect samples from all the water taps in the residence that have not yet been the subject of corrective measures or have not been taken out of service under section 15, the water from which is used for drinking or preparing food or beverages that the childcare provider makes available to persons as part of providing educational childcare services.

If at least one water sample collected from a tap pursuant to the second paragraph meets the drinking water quality standard relating to lead, the home educational childcare provider must collect a new water sample from such a tap during the July to September quarter of the fifth year following the year during which the home educational childcare provider carried out the sample collection referred to in the second paragraph.

That sample collection must be carried out every five years provided the concentration of lead in the water meets the drinking water quality standard relating to lead.

If a water sample collected pursuant to the third or fourth paragraph fails to meet the drinking water quality standard relating to lead, the home educational childcare provider must repeat the steps described in the second, third and fourth paragraphs.

**13.** If the water sample collected pursuant to section 2 and referred to in subparagraph 2 of the first paragraph of section 3 fails to meet the drinking water quality standard relating to lead, the home educational childcare provider must collect a new water sample from all the other taps in the residence, the water from which is used for drinking or preparing food or beverages that the home educational childcare provider makes available to persons as part of providing educational childcare services.

If at least one water sample collected from a tap pursuant to the first paragraph meets the drinking water quality standard relating to lead, the home educational childcare provider must collect a new water sample from such a tap during the July to September quarter of the fifth year following the year during which the home educational childcare provider carried out the sample collection referred to in the first paragraph.

That sample collection must be carried out every five years provided the concentration of lead in the water meets the drinking water quality standard relating to lead.

If a water sample collected pursuant to the second or third paragraph fails to meet the drinking water quality standard relating to lead, the home educational childcare provider must repeat the steps provided in this section, with the necessary modifications.

## DIVISION II

### CORRECTIVE MEASURES IN CASES OF LEAD CONCENTRATION ABOVE THE DRINKING WATER QUALITY STANDARD RELATING TO LEAD

**14.** If an educational childcare provider is informed that a water sample collected from a tap pursuant to this Regulation has failed to meet the drinking water quality standard relating to lead, the childcare provider must, without delay, make sure that the water from that tap is not used for drinking or preparing food or beverages that the childcare provider makes available to persons as part of providing educational childcare services.

**15.** The educational childcare provider must, within 30 days of being informed that a water sample has failed to meet the drinking water quality standard relating to lead, take all appropriate corrective measures, temporary or permanent, to ensure that the water used for drinking or preparing food or beverages that the childcare provider makes available to persons as part of providing educational childcare services meets the drinking water quality standard relating to lead at the time the water is made available to those persons. The childcare provider may, however, instead of taking such measures, choose to take out of service the tap referred to in section 14 or to remove the tap from the childcare provider's facility or residence.

For the purposes of applying the first paragraph, an appropriate temporary corrective measure is a measure such as installing a filter or other lead removal system and using it in accordance with the manufacturer's instructions, and an appropriate permanent corrective measure is a measure such as carrying out plumbing work.

**16.** Within 30 days of being informed that a water sample has failed to meet the drinking water quality standard relating to lead, the educational childcare provider must also certify, in the manner prescribed by the Minister, that the childcare provider has taken corrective measures to remedy the situation or that the childcare provider has taken out of service the tap referred to in section 14, or removed the tap from the provider's facility or residence.

The childcare provider must also send a copy of that certification

(1) to the Minister, if the childcare provider is a permit holder; or

(2) to the home educational childcare coordinating office that granted recognition if the childcare provider is a home educational childcare provider.

The home educational childcare coordinating office must send as soon as possible to the Minister a copy of the documents the office receives pursuant to subparagraph 2 of the second paragraph.

The childcare provider must keep evidence of the corrective measures taken to remedy the situation in the facility or residence where educational childcare is provided, as applicable, or of taking out of service the tap referred to in section 14 or of removing the tap from the childcare provider's facility or residence.

**17.** The precautionary measure taken under section 14 must be maintained until one of the following conditions is met:

(1) the educational childcare provider has taken all appropriate corrective measures, temporary or permanent, referred to in section 15 or work has been carried out in the public water distribution network and the result of the analysis of lead concentration in a water sample collected after the measure was implemented or the work carried out from any tap referred to in section 14, regardless of when in the year the sample was collected, has shown that the concentration of lead in the sample meets the drinking water quality standard relating to lead; or

(2) the educational childcare provider has taken the tap referred to in section 14 out of service or removed the tap from the childcare provider's facility or residence.

In the event of a change of the corrective measure taken, the educational childcare provider must implement again the precautionary measure taken under section 14 until the conditions of subparagraph 1 of this section are met in respect of the new corrective measures.

#### CHAPTER IV ADMINISTRATIVE PENALTY

**18.** A person designated by the Minister for that purpose may impose an administrative penalty on a permit holder after ascertaining that the permit holder has failed to comply with a non-compliance notice given under section 65 of the Act with respect to the contravention of any provision of sections 1 to 10 or 14 to 17.

The amount of the administrative penalty is \$500 in the case of a natural person and \$1,000 in other cases.

#### CHAPTER V PENAL PROVISION

**19.** A permit holder or a home educational childcare provider that contravenes any of sections 1, 5 or 14 to 17 is guilty of an offence under section 117 of the Act.

#### CHAPTER VI AMENDING PROVISION

**20.** Section 75 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2), as amended by section 58 of the Access to Educational Childcare Services Regulation made by Order in Council 863-2024 dated 22 May 2024, is amended again by inserting the following after paragraph 3.1:

“(3.2) the childcare provider has committed, authorized, consented to or participated in the commission of an offence under any of sections 1 to 7 or 11 to 17 of the Regulation respecting the control of lead in water in facilities and private residences where educational childcare is provided (*insert the reference to the Compilation of Québec Laws and Regulations*);”.

#### CHAPTER VII TRANSITIONAL AND FINAL PROVISIONS

**21.** An educational childcare provider that has collected water samples from any tap referred to in subparagraph 1 or 2 of the first paragraph of section 3 for the purpose of lead control in the period from 28 November 2019 to (*insert the date that precedes the date of coming into force of this Regulation*), regardless of when in the year the sample was collected, is presumed to have carried out the water sample collection under subparagraph 1 of section 2 insofar as the analysis of any sample so collected was carried out by an accredited laboratory.

A childcare provider referred to in the first paragraph that has carried out water sample collection in 2020 has an additional period of one year, from the date on which the childcare provider collected the water sample, to proceed to the first sample collection that the provider is required to carry out under Division I of Chapter III.

A childcare provider referred to in the first paragraph that has carried out sample collection in the period from 28 November 2019 to 31 December 2019 has an additional period of two years, from the date on which the childcare provider collected the sample, to proceed to the first sample collection that the provider is required to carry out under Division I of Chapter III.



In addition, an educational childcare provider referred to in the first paragraph is presumed to comply with sections 14 to 17 in respect of any tap, the water from which failed to meet the drinking water quality standard relating to lead, inasmuch as the tap was the subject of a temporary corrective measure referred to in section 15 or was taken out of service.

**22.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106996

