



TESTIMONY OF EARTHJUSTICE BEFORE THE JOINT SENATE HEALTH AND
HOUSING, CONSTRUCTION, AND DEVELOPMENT COMMITTEES
November 30, 2021

Good afternoon, my name is Liz Moran, and I am the New York Policy Advocate for Earthjustice. Earthjustice, as the nation's first and largest national nonprofit environmental law organization, brings far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities. We are dedicated to defending the right of all people to a healthy environment and fighting to curb climate change.

Thank you for the opportunity to testify today on policies the state should pursue to prevent lead exposure. Eliminating lead exposure is a top priority for Earthjustice and our partners and clients, and we offer numerous resources on the topic, including our online tool, betterleadpolicy.org.

It is widely understood that any level of lead in the body is linked to health harm – including neurological damage in children that is irreversible, increased risk for cardiovascular disease, and likely cancer, making it crucial to eliminate *all* possible routes of exposure to lead. These harms fall disproportionately on low-income communities and communities of color.

The lead crisis is particularly acute in New York. From 2014 to 2016, New York State recorded 6,348 cases of elevated blood lead levels of 10 µg/dL or higher in children under 6 years old. Relative to other states, New York has both the greatest number (3.4 million) and the highest percentage (40.9%) of its housing stock built before 1950 – making New York housing particularly likely to contain deteriorating lead paint.¹ Parts of the state are at even higher risk of childhood lead poisoning. For example, in Buffalo, approximately 90% of the housing stock was built before lead paint was banned in 1978.

Additionally, it is estimated that New York has at least 360,000 lead service lines for water distribution, posing another route of lead exposure. *Public health experts identify replacing lead service lines as the most important effort that can be undertaken to reduce lead levels in drinking water.*²

With the federal government's inadequate lead policies and its continued lack of enforcement of lead policies in place, it is imperative for New York to adopt policies to prevent lead

¹ U.S. Census Bureau, 2016 American Community Survey 1-Year Estimates, B25034: Year Structure Built, https://factfinder.census.gov/rest/dnldController/deliver?_ts=523447588517 (data accessed Sept. 14, 2017) (numbers derived by adding the data from the “Built 1940 to 1949” and “Built 1939 or Earlier” columns and dividing the sum by the third column, which represents the total number of housing units).

² See Pew Charitable Trust, *10 Policies to Prevent and Respond to Childhood Lead Exposure* (Aug. 30, 2017), <https://www.pewtrusts.org/en/research-and-analysis/reports/2017/08/10-policies-to-prevent-and-respond-to-childhood-lead-exposure>.

exposure. As we detail further in subsequent sections of our written testimony, Earthjustice recommends the following specific actions to reduce lead exposure in New York:

1. **Pass S.2142-A (Kavanagh)/A.6608-A (Rivera).** *This legislation would require disclosure of lead-based paint test reports in real estate transactions.* A major source of lead poisoning is lead paint in old housing—New York has the oldest housing inventory in the country, and 74 percent of New York housing was constructed prior to the state’s 1970 ban on the sale of lead-based paint. While federal law requires sellers to disclose lead-based paint *if they know it exists*, it does not mandate the testing that would alert sellers to the presence of lead. As a result, property is often transferred without disclosing lead-based paint hazards.
2. **Pass S.3079 (Ryan)/A.7488 (Rivera).** *This legislation would prohibit the exclusion of insurance coverage for losses or damages caused by exposure to lead-based paint.* NY law currently includes loopholes that exempt insurance policies held by landlords from covering medical expenses related to lead exposure. Given that exposure to lead has disproportionately impacted low-income and communities of color, these loopholes are a tremendous injustice to these communities. Landlords who do not take action to prevent lead poisoning should face financial consequences.
3. **Pass S.6554 (Bailey)/A.7117 (Bronson).** *This legislation would enable New York State to assume administration of the federal lead-safe renovation, repair and painting (known as RRP) rules.* RRP is a federal program designed to ensure that renovation work in homes with lead paint does not result in lead contaminating the living space or exposing the workers. Renovation, repair and painting is a major source of lead in people’s homes, however, even EPA’s Office of Inspector General agrees that “the EPA does not have an effective strategy to implement and enforce” the RRP rules.³ RRP allows states to assume enforcement of the program, and 14 states do so, but not New York. New York has more housing with lead risk than any other state, and more cases of lead poisoning. New York should take over this program to ensure all New Yorkers benefit from much needed protections against lead exposure.
4. **Include additional funding for New York’s Lead Service Line Replacement Program in the SFY2022-23 budget.** New York’s Lead Service Line Replacement Program (LSLRP), a program within New York’s Clean Water Infrastructure Act, provides New York communities with grant funding to replace lead service lines. \$30 million has been awarded to 44 New York communities through this program; however, needs far exceed funding that has been made available. New York has an estimated 360,000 lead service lines, with a corresponding price tag of *at least* \$1-2 billion needed to locate and replace all lead service lines statewide.
5. **Equitably use the federal Bipartisan Infrastructure Deal funding to replace lead service lines.** With the recently passed Bipartisan Infrastructure Deal, New York will be receiving much needed additional funding to replace lead service lines. Now, New

³ U.S. Environmental Protection Agency Office of Inspector General, “EPA Not Effectively Implementing the Lead-Based Paint Renovation, Repair and Painting Rule,” September 9, 2019, https://www.epa.gov/sites/default/files/2019-09/documents/_epaog_20190909-19-p-0302.pdf

York must rise to the occasion by ensuring this funding is directed towards communities known, or likely to be disproportionately exposed to lead from other sources, and that all lead service lines are replaced at zero cost to consumers.

- 6. Improve Lead Service Line inventory and data reporting.** A significant obstacle to replacement of lead service lines is identifying where lead service lines are located. It is conservatively estimated that New York has 360,000 lead service lines, but many lines in New York are classified as “unknown.” New York should require investigation of “unknown” lead service lines and create a lead service line inventory, updated on an annual basis, that includes reporting by material type. This information should be published in a GIS database that easily accessible and understandable by the public.

Health Impacts of Lead Exposure

Lead is a potent neurotoxic chemical that has no known safe level of human exposure. Children are especially vulnerable to harm when exposed early in life, including in utero. There is a scientific consensus on the devastating harm that lead causes to children, especially in neurological development. Neurological harm from lead is known to be irreversible. Lead can also cause grave harm to the hematologic, gastrointestinal, cardiovascular and renal systems in children and adults. Lead is also a likely carcinogen, adding to the effect of other carcinogens in a child’s environment.

On top of all of these harms, there is an association between higher childhood blood lead levels and violent or anti-social behaviors resulting in entry into the criminal justice system later in life. The Centers for Disease Control & Prevention (CDC) and EPA have recognized that there is *no* safe level of human exposure to lead.

New York’s childhood lead poisoning crisis is a serious failure in environmental justice. Children in communities of color and low-income communities shoulder a disproportionate health burden from lead hazards—both in amount and frequency of exposure—and are also more likely to suffer adverse educational and social impacts due to the effects of lead poisoning. Lead is not just a concern for children. In fact, a 2018 study, which followed adults aged 20 and older from 1988-1994 through 2011, found that “low-level environmental lead exposure is an important, but largely overlooked, risk factor for cardiovascular disease mortality in the USA.”⁴

Lead poisoning is a major public health crisis that impacts millions of New Yorkers. Between 2011 and 2015, nearly 100,000 children in the state were newly identified with blood lead levels at five micrograms per deciliter, the Center for Disease Control and Prevention’s (CDC) “blood

⁴ Prof Bruce P Lanphear, MD, “Low-level lead exposure and mortality in US adults: a population-based cohort study,” *The Lancet Public Health*, Volume 3, Issue 4, April 1, 2018, [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(18\)30025-2/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(18)30025-2/fulltext)

lead level of concern.” New York is home to three of the top five cities with the highest rates of childhood lead poisoning in the country: Syracuse, Buffalo, and Poughkeepsie.⁵

There are several pathways of exposure to lead including:

- **Homes built prior to 1978 that contain lead paint.** Exposure occurs when the paint peels and cracks, which causes lead dust. Children can be poisoned when they swallow or breathe in lead dust.
- **Water pipes.** This route of exposure has often been overlooked, but can be significant. Formula-fed infants can receive most of their lead exposure from drinking water used in the formula. New York has at least 360,000 lead service lines. Additionally, many homes may still have lead plumbing fixtures.

Unfortunately, the federal government has long dropped the ball when it comes to preventing lead exposure and educating the public. To protect the health of all New Yorkers, it is imperative for New York to take a leadership role in preventing lead exposure. This means New York must adopt health-protective hazard standards and mandates to test, disclose, and remediate. Additionally, New York must adopt policies to prevent all possible routes of exposure, including robust public education campaigns, so the public is aware of risks and can take steps to protect themselves and their families.

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Thank you for the opportunity to testify today. Earthjustice looks forward to working with the legislature to pass bold policies to prevent lead exposure and poisoning during the upcoming legislative session.

⁵ Leland F. McClure, PhD, Justin K. Niles, MA, and Harvey W. Kaufman, MD, “Blood Lead Levels in Young Children: US, 2009-2015,” The Journal of Pediatrics, 2016, <https://www.jpeds.com/action/showPdf?pii=S0022-3476%2816%2930206-2>