



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE DIRECTIVE

No. 2021-9

To: State Department Directors and Autonomous Agency Heads
From: Governor Gretchen Whitmer
Date: November 4, 2021
Re: Ensuring safe drinking water

Every Michigander deserves safe drinking water. To uphold this value, I am directing my departments to undertake a comprehensive review of the state's role in our drinking water systems. This review will focus on both prevention and response when water quality issues arise. Moreover, this review will result in action by providing recommendations to ensure every parent can hand their child a glass of water with confidence.

This review must address at least six areas. *First*, it must examine our current regulatory structure and recommend reforms to strengthen drinking water protections. These reforms may include legislation, amendments to existing rules, new rules, and executive reorganization. In 2018, Michigan adopted the toughest lead rules in the nation, and yet in this area and others we can continue to improve. We must consider whether current best practices – actions our departments are already taking that go above-and-beyond what the law requires – should have the force of law to ensure lasting change.

Second, this review must consider resources. Greater funding will allow the State of Michigan to better assist public water supplies, collect data, and enforce our safe drinking water laws. Moreover, these supplies, which operate at the local or regional level, are often underfunded. This shortfall in funding is especially felt by low-income communities that sometimes cannot maintain their water systems.

Third, this review must look at efforts around education and engagement to ensure everyone who lives in a community experiencing a water quality issue timely receives the information they need to protect themselves. In addition, and *fourth*, this review must look at ways to reduce lead in drinking water. Although this review is not limited to lead, this contaminant demands special attention given its ubiquity in our water distribution systems.

Fifth, this review must examine our data collection and sharing practices, with the goal of strengthening the collection and transfer of information and formalizing best practices already in place. The state does not operate public water supplies, but its roles in regulating these systems and protecting public health demands better access to data on local water assets. *Sixth*, and lastly, this review must examine opportunities for regional planning in the sourcing, treatment, and delivery of drinking water. Ensuring safe drinking water will require more resources, but it will also demand greater efficiency to ensure every dollar is well spent.

Within state government the primary departments involved with drinking water are the Department of Environment, Great Lakes, and Energy (EGLE), which regulates water operators and promulgates and implements regulations under the Michigan Safe Drinking Water Act, and the Department of Health and Human Services (MDHHS), which protects the public health. Other departments may have a role to play, as well, and I expect every department to participate in this review as needed.

Acting under sections 1 and 8 of article 5 of the Michigan Constitution of 1963, I direct the following:

1. *Laws and regulations.*

- (a) In consultation with MDHHS, EGLE must undertake a line-by-line review of the Safe Drinking Water Act, 1976 PA 399, MCL 325.1001 *et seq.*, and the accompanying rules, Mich. Admin. R. 325.10101 *et seq.*, and recommend statutory and administrative changes to strengthen drinking water protections and ensure the continuation of best practices that exceed what the law currently requires. This review must include, but is not limited to:
 - (1) the data needed to assess the quality of water treated at public water supplies;
 - (2) maximum contaminant levels and maximum residual disinfection levels;
 - (3) monitoring requirements and testing procedures;
 - (4) public notification procedures following a water quality concern;
 - (5) actions to mitigate risks from actual or potential water quality concerns;
 - (6) actions to eliminate risks caused by poor infrastructure at public water supplies; and
 - (7) response plans for alternative drinking water distribution.
- (b) In consultation with EGLE, MDHHS must consider whether to promulgate rules under the Public Health Code, MCL 333.1101 *et seq.*, that strengthen

drinking water protections and further the department's mission "to safeguard properly the public health [and] to prevent the spread of diseases and the existence of sources of contamination," MCL 333.2226(d).

2. *Resources.*

- (a) EGLE must conduct a resource review to document the number of staff and amount of funding necessary to ensure the department completes an adequate number of inspections; timely issues authorizations; timely documents and corrects violations; provides technical assistance to facilitate compliance by public water supplies; and effectively administers grants and loans to ensure state financial support is distributed throughout the state to improve deficient public water supplies.
- (b) MDHHS must conduct a resource review to document the number of staff and amount of funding necessary to ensure the department educates the public, including people who depend on private water supplies, and affected communities about safe drinking water and the dangers associated with particular contaminants; promotes drinking water testing; and supports local health departments in carrying out similar tasks.

3. *Education and engagement.*

- (a) MDHHS must continue to offer health education to the public on safe drinking water, including methods to avoid lead hazards, and consider whether to redirect resources toward this end to ensure sufficient awareness. MDHHS must prioritize educational outreach in communities at greatest risk of harm from lead or other contaminants in drinking water.
- (b) EGLE and MDHHS must continue to develop and strengthen robust community engagement plans for communities at risk of or with a lead or copper action level exceedance, coordinating with local partners.
 - (1) These plans must aim to achieve awareness using all necessary means, which may include digital media, direct mail, door-to-door visits, mobile phone alerts, and other means of communication.
 - (2) These plans must include notification to the relevant local, state, and federal elected officials.
 - (3) The departments must aim to incorporate community values and interests into these plans.

4. *Lead mitigation.*

- (a) EGLE must report on the estimated number of lead service lines connected to public water supplies, as well as lead service lines located at private residences and other private locations, and develop proposals to facilitate the

rapid and safe removal of lead service lines at the lowest possible cost to the state, to public water supplies, and to homeowners not connected to public water supplies.

- (b) MDHHS must develop proposals to reduce exposure to lead in drinking water among all residents, especially vulnerable populations. These proposals may include the replacement of outdated plumbing fixtures that contain lead and the use of filters by any residence with a lead service line or an elevated risk of lead exposure in their drinking water.

5. *Data collection and sharing.*

- (a) EGLE must develop a Geographic Information System (GIS) database of the state's drinking water assets, public water supply boundaries, and public water supply sources. This database must include the location of all drinking water treatment facilities, source water wells and intakes, storage tanks and other storage facilities, distribution piping, and other critical components of a public water supply. This information should include the date installed, the type of material used, the size of the item, the condition of the asset, and the date of the most recent condition assessment. EGLE must develop a proposal to require public water supply operators to update and maintain this information. In addition, EGLE must make this GIS database available to public health agencies for public health response purposes.
- (b) To continue the sharing of data related to drinking water across departments, and to ensure this information transfer continues from one administration to the next, EGLE and MDHHS, to the extent permitted by state and federal law, must enter into an agreement to ensure all relevant information is shared across departments pertaining to water quality, communicable diseases in humans and animals, and any other matters that may facilitate these departments fulfilling their duties under federal and state law, this executive directive, or which MDHHS determines may help protect the public health as to drinking water.

6. *Regional planning.* EGLE must develop a proposal that promotes regional planning to ensure the state's infrastructure investments are equitable and result in high-quality drinking water at the lowest cost. This proposal should explore opportunities for shared services and identify incentives for action and roadblocks that deter the ability of public water supplies to provide water to residents outside a supply's current service area but whose current source of water is compromised, threatened, or unsustainable.

This directive is effective immediately. EGLE and MDHHS must complete this review no later than December 31, 2022 and must jointly provide status updates on this review at least once every three months until the review is complete.

Thank you for your cooperation in implementing this directive.

A handwritten signature in blue ink, reading "Gretchen Whitmer". The signature is fluid and cursive, with a large initial "G" and a long horizontal stroke at the end.

Gretchen Whitmer
Governor