

Rulemaking Fact Sheet

[5 MRSA §8057-A]

AGENCY: Department of Health and Human Services, Maine Center for Disease Control and Prevention

NAME, ADDRESS, PHONE NUMBER, E-MAIL OF AGENCY CONTACT PERSON: Andrew Hardy
11 SHS, 286 Water Street, Augusta, ME 04333-0011, (207) 287-4490, andrew.hardy@maine.gov

TYPE OF RULE (check one): Routine Technical Major Substantive

CHAPTER NUMBER AND RULE TITLE: 10-144 CMR Chapter 234, Lead Testing In School Drinking Water Rule

STATUTORY AUTHORITY: 22 MRS § 2604-B

DATE, TIME AND PLACE OF PUBLIC HEARING: Wednesday, January 8, 2020; 11 a.m., DHHS-Maine CDC, 286 Water Street, Conference Room 12, Augusta, Maine 04333-0011

COMMENT DEADLINE: Saturday, January 18, 2020

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

The DHHS, Maine CDC is proposing this new rule to comply with 2019 P.L. Ch. 158, *An Act to Strengthen Testing for Lead in School Drinking Water*, codified at 22 MRS § 2604-B. This Act directs the Department to provisionally adopt a major substantive rule by January 10, 2020. This proposed rule meets the requirements of the Act by establishing lead testing in drinking water testing protocols, setting a standard lead in school drinking water, describing abatement and mitigation methods if lead exceeds the standard, as well as public notification and reporting requirements.

Approximately 120 of Maine's 700 schools are regulated as public water systems by the Maine CDC Drinking Water Program, because they serve water to at least 25 people for at least 60 days in a year from their own source of water, usually a well. These 120 schools that are public water systems must also comply with State and federal requirements for lead. This rule focuses on identifying and mitigating lead problems in all Maine schools, including the approximate 580 schools that receive their water from a water utility, because they are not currently required to sample their water for lead. This rule will help reduce lead exposure in all Maine schools.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? __ YES NO [*see* §8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The Department currently regulates about 2,000 public water systems. This new rule would require an additional 580 regulated entities for the Department to work with in the implementation of this rule.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

The United States Environmental Protection Agency's recommendations for reducing lead in drinking water in schools; The Department also relied upon its staff's expertise.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

There are no additional costs associated with this rule. The Department will utilize existing staff and resources.

Note: If necessary, additional pages may be used.

BASIS STATEMENT
Provisional Adoption of a Major Substantive Rule

10-144 CMR, Ch. 234 Lead Testing In School Drinking Water Rule

The Department of Health and Human Services, Maine CDC (the Department), advertised a proposed rulemaking on December 18, 2019 to create a new rule, 10-144 CMR Ch. 234, Lead Testing In School Drinking Water Rule. A public hearing was held on January 8, 2020. Written comments were accepted until January 18, 2020.

The DHHS Maine CDC is provisionally adopting this new major substantive rule to comply with 2019 P.L. Ch. 158, An Act to Strengthen Testing for Lead in School Drinking Water, codified at 22 MRS § 2604-B. The Act directs the Department to provisionally adopt a major substantive and establish the following: drinking water testing protocols for lead in schools, a standard of lead in school drinking water, abatement and mitigation methods, as well as public notification and reporting protocols. This rule meets the requirements of the Act.

Approximately 120 of Maine's 700 schools are currently regulated as public water systems, because they serve water from their own source of water, usually a well, to at least 25 people for at least 60 days in a year. These schools regulated as public water systems must comply with State and federal drinking water requirements for lead in the Rules Relating to Drinking Water (10-144 CMR Ch. 231). This rule expands lead testing requirements to the remaining 580 Maine schools that receive water from districts or utilities, in order to identify and mitigate high lead levels

Lead Testing In School Drinking Water Rule (10-144 CMR Ch. 234) is a major substantive rule and requires legislative approval prior to final adoption.

Statutory Authority: 22 MRS § 2604-B

Effective Date: March 16, 2020

Rule-Making Cover Sheet

TO: Secretary of State

ATTN: Administrative Procedure Officer, State House Station 101, Augusta, Maine 04333

- 1. **Agency:** DHHS, Maine Center for Disease Control and Prevention
- 2. **Agency umbrella and unit number (2 digit umbrella # and 3 digit unit #):** 10-144
- 3. **Title of rule:** Lead Testing In School Drinking Water Rule
- 4. **Chapter number assigned to the rule (must be 3 digits or less):** 234
- 5. **Date(s)/method(s) of notice:** December 18, 2019. Public notice in 5 major newspapers, Secretary of State and Maine CDC websites
- 6. **Date(s)/place(s) of hearing(s):** January 8, 2020, Maine CDC, 286 Water St., Augusta Maine 04333
- 7. **Type:** new rule partial amendment(s) of existing rule
 suspension of existing rule repeal of rule emergency rule
 repeal and replace: complete replacement of existing chapter, with former version simultaneously repealed.
- 8. **Name/phone of agency contact person:** Andrew Hardy, 287-4490
- 9. **If a major substantive rule under Title 5, c. 375, sub-CII-A, check one of the following**
 Provisional adoption **Final adoption**
(prior to Legislative review)
 Emergency adoption of major-substantive rule

10. Certification Statement: I, Jeanne M. Lambrew, Ph.D., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by

Department of Health and Human Services on 3/10/20
(name of agency) (date)

I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Signature: Jeanne M Lambrew
(original signature, personally signed by the head of agency)

Printed name & title: Jeanne M. Lambrew, Ph.D., Commissioner, DHHS.

11. Approved as to form and legality by the Attorney General on 3/11/20
(date)

Signature Margaret Mackall
(original signature, personally signed by an Assistant Attorney General)

Printed Name: Margaret Mackall, AAG

Notice of Agency Rule-making Adoption
PROVISIONALLY ADOPTED MAJOR SUBSTANTIVE RULE

AGENCY: Department of Health and Human Services, Maine Center for Disease Control and Prevention

CHAPTER NUMBER AND TITLE: 10-144 CMR Ch. 234, Lead Testing In School Drinking Water Rule

ADOPTED RULE NUMBER: **20xx.xxx**
(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY: The DHHS Maine CDC is provisionally adopting this new rule to comply with 2019 P.L. Ch. 158, An Act to Strengthen Testing for Lead in School Drinking Water, codified at 22 MRS § 2604-B. The Act directs the Department to provisionally adopt a major substantive rule and establish the following: drinking water testing protocols for lead in all Maine schools, a standard of lead in school drinking water, abatement and mitigation methods, as well as public notification and reporting protocols.

EFFECTIVE DATE:
(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON:

NAME: Andrew Hardy
ADDRESS: 11 SHS - 286 Water Street
Augusta ME 04333-0011

TELEPHONE: (207) 287-4490
E-MAIL ADDRESS: andrew.hardy@maine.gov

AGENCY WEBSITE: <http://www.maine.gov/dhhs/mecdc/rules/>

Please approve bottom portion of this form and assign appropriate **AdvantageME** number.

APPROVED FOR PAYMENT _____ DATE: _____
Authorized signature