

STATE OF MAINE

**LEAD TESTING IN
SCHOOL DRINKING WATER RULE**

10-144 CODE OF MAINE RULES
Chapter 234



Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
Augusta, Maine 04333-0011

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MAJOR SUBSTANTIVE RULE

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SECTION 1. PURPOSE AND DEFINITIONS

- A. Purpose.** The purpose of this rule is to ensure that the Department meets the requirements of 22 MRS §2604-B to provide the necessary resources to Maine schools testing drinking water for lead levels. This rule sets requirements for all schools in Maine to test any water used for drinking or culinary purposes and outlines the resources provided by the Department to assist these schools in such efforts. If a school's drinking water contains lead in excess of the water lead levels described in this rule, then the Department will issue specific guidance to help reduce exposure to lead.
- B. Definitions.** The definitions in this rule are in addition to the definitions in the applicable statutes.
1. **Building** means any structure, facility, addition or wing of a school that may be occupied or used by children, students, and faculty or staff.
 2. **Department** means the State of Maine Center for Disease Control and Prevention Drinking Water Program, the agency responsible for regulating public water systems.
 3. **Drinking Water Outlet** means a water fixture currently or potentially used for drinking, cooking or culinary purposes. Examples of drinking water outlets include but are not limited to drinking water fountains, bubblers, bathroom faucets, nurse office faucets, home economics faucets, teacher lounge faucets, cafeteria faucets, kettles, ice machines, or water bottle fill stations.
 4. **First-Draw Sample** means a lead water sample that is collected from an outlet where the water has sat motionless in the school's plumbing for a minimum of eight hours.
 5. **Mixing Faucet** means a single outlet for water that contains both hot and cold water.
 6. **Outlet** means any fixture that dispenses water.
 7. **ppb** means parts per billion.
 8. **School** means a private school as defined in 20-A MRS §1(22) or a public school as defined in 20-A MRS §1(24).

SECTION 2. IDENTIFICATION OF SAMPLE SITES

- A.** The Department will designate those laboratories authorized to analyze lead samples and report lead results for Maine schools. The Department will provide a list of those laboratories to all Maine schools identified by the Maine Department of Education.
- B.** Every school must identify all drinking water outlets on its property.
- C.** All schools must also identify outlets that do not meet the definition of drinking water outlets, by identifying outlets not used for consumption.

1. Examples of outlets that do not meet the definition of drinking water outlets may include but are not limited to, shower heads, mop sinks, some science lab faucets, eye wash stations, or outdoor spigots that are not used for filling water bottles for athletics.
 2. Indoor outlets that may be reasonably interpreted as drinking water outlets but were determined by the school to not be a drinking water outlet may be identified by signage stating that the outlet's water is not intended for consumption, in order to avoid potential consumption.
- D.** To test the drinking water outlets for lead, each school must contact a designated laboratory from the list provided by the Department, referred to in Section 2(A) above. Each school must report the number of drinking water outlets to the laboratory, so that the laboratory may send the appropriate number of sample bottles to the school for collection from each identified drinking water outlet.

SECTION 3. TESTING PROTOCOLS

- A.** The Department will provide funds to the designated laboratory for the cost of sample bottles, shipping and delivery charges, and analyses. All laboratories designated by the Department will be accredited by the State of Maine for testing lead in drinking water, in accordance with the *Maine Comprehensive And Limited Environmental Laboratory Accreditation Rule* (10-144 CMR Ch. 263).
- B.** Upon receipt of the sample bottles, each school must collect one first-draw sample from each drinking water outlet identified by the school.
1. Each school must determine the person who will collect samples from the school's drinking water outlets and who will be listed as the contact to receive documents and training material supplied by the Department for lead sampling.
 2. Schools must collect first-draw samples in accordance with the requirements of this section and any specific guidance that the school has received from the Department.
 3. For each identified drinking water outlet, the school must collect a first-draw sample of 250 milliliters (mL) in volume. In accordance with the United States Environmental Protection Agency's (EPA's) "3Ts for Reducing Lead in Drinking Water in Schools," the school must ensure that the water has been motionless in the pipes for at least eight hours. Excessive flushing of pipes may not take place immediately prior to the minimum 8-hour nonusage period in order to ensure that the sample represents a period of normal use.
 4. Schools must collect samples from cold water. If a mixing faucet is being sampled, then schools must collect the water in the same way that it would be consumed during normal use.
 5. Schools must complete all documentation required by the assigned laboratory at the time of sampling, including chain of custody forms.

6. Schools wanting assistance with sampling or with meeting any other provisions of this rule must request such assistance from the Department before 60 days of their sampling expiration period.
7. All schools must test all drinking water outlets at their school building(s) at least once, in accordance with this section and within the collection period set by the Department in its notification to each school.
8. The Department will notify each school of its collection period's start and end date using the list of schools provided by the State of Maine Department of Education. The Department will inform each school of its collection period at least 30 days prior to the start of the collection period.
9. The Department may recommend additional sampling, if the Department determines that testing of more samples would help identify the source of lead contamination, confirm lead mitigation results, or confirm that major changes in source water did not negatively impact water quality. The Department will pay for sample shipping and delivery charges, sample bottles and lab analyses associated with additional testing conducted, as a result of its determination that more sampling should occur.

SECTION 4. WATER LEAD LEVELS

- A. A school that reports any drinking water outlet with a first-draw lead level exceeding 4 ppb may refer to Section 5 of this rule, to reduce lead exposure.
- B. All schools regulated by the Department as public water systems must meet the requirements of this rule, as well as the *Rules Relating to Drinking Water* (10-144 CMR Ch. 231).

SECTION 5. ABATEMENT AND MITIGATION

- A. If a school reports a lead concentration of water at a drinking water outlet that exceeds 4 ppb, then the following actions will occur:
 1. The Department will provide outreach materials to detail possible mitigation measures available to reduce the risk of lead exposure at the school.
 2. Utilizing that information, the Department will recommend that the school develop and submit a lead remediation plan to the Department. The Department may aid the school in developing this plan. The Department's assistance to the school may include the following:
 - a. Guidance on collecting additional water samples to determine the source of the elevated lead levels; and/or
 - b. Recommendations for abatement and mitigation, which may include a routine flushing program, fixture removal/replacement, installation of physical or chemical treatment.

3. The Department will recommend that a school prohibit use of any drinking water outlet exceeding the lead levels of 4 ppb by physically disconnecting the outlet or by posting “Do Not Drink” signs at each affected outlet until a lead remediation plan is successfully implemented to mitigate the lead level of such outlet. Successful implementation is demonstrated by test results reporting lead levels at or below the 4 ppb at that drinking water outlet.
- B.** Schools with drinking water outlets having lead testing results below 4 ppb may choose to engage in abatement and mitigation measures. The Department will provide assistance and outreach materials to schools, if requested, regardless of lead concentration results.

SECTION 6. PUBLIC NOTIFICATION

- A.** The Department will provide schools with a fillable public notice document to complete and distribute to parents, students and staff.
- B.** The school must distribute public notice to all staff and persons in parental relation to children or students, enrolled or employed at the school. The public notification form may be distributed electronically. This form from the Department includes the following information:
1. The total number of sites sampled;
 2. The number of sites exceeding 4 ppb;
 3. The concentration of lead in the sites exceeding 4 ppb;
 4. The location description of the sites that are exceeding the 4 ppb;
 5. Mitigation measures completed thus far;
 6. Mitigation measures planned, with the expected completion date;
 7. Location where parents can find a list of all lead test results (ex. bulletin board or school’s website); and
 8. Lead education materials provided by the Department.
 9. The public notice must include a link to the Department’s website which will post all school results.
- C.** Schools must distribute public notice as soon as practicable within 5 days of receiving lab results.
- D.** Schools must certify to the Department within seven days of the distribution pursuant to Section 6(B)(1)-(8), that public notification to parents and staff was completed by submitting a written certification to the Department. Proper certification requires a copy of the public notification document distributed, the date that the school performed the public notification, and identification of the person responsible for the public notification.

- E.** If the Department does not receive certification in accordance with this rule, then the Department may post the school's lead results in the local newspaper in the school's area.

SECTION 7. RECORDKEEPING

- A.** The school must retain all records of test results and lead remediation plans for 12 years following the creation of such documentation. Copies of such documentation must be made available to the Department upon request.
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STATUTORY AUTHORITY:

22 MRS §2604-B

EFFECTIVE DATE:

January 12, 2022- filing 2021-257 (Final adoption, major substantive)