

Notice of Agency Rulemaking Proposal

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

CHAPTER NUMBER AND TITLE: Chapter 265- Maine Drug Testing Laboratory Rules

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: The proposed rule change amends 10-144 CMR ch. 265, the Maine Drug Testing Laboratory Rules to be consistent with updates to the Maine Department of Labor's (DOL) best practices and 26 MRS ch. 7, subch. 3-A (Substance Use Testing). Proposed changes include: 1) updates to protocols in Section 2 of the rule specific to the collection of hair, oral fluids and sweat patches for drugs; 2) revised cut-off levels for substance-use tests to be consistent with current levels established by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration; 3) revised list of proficiency testing programs; 4) updates to testing technology for screening tests; and 5) revised protocols for sample storage. In Section 3 of the rule, the Department proposes to reorder substances listed and add the following substances to the list of substances for which an employer may test: *buprenorphine, fentanyl, hydrocodone, hydromorphone, oxycodone, oxymorphone, and propoxyphene* for urine testing and clarify metabolites, where applicable. Other proposed rule changes clarify the Department's discretionary authority over inspections and, in the definition section of the rule, proposes amendments to clarify *confirmed positive result, screening test, and confirmation test*. Finally, the Department proposes grammatical and technical corrections, a new title, changes to format and other minor non-substantive changes, for clarity and conformity to agency standards for improvement of the rule.

Date, time and location of PUBLIC HEARING (*if any*): No public hearing scheduled (5 MRS § 8053(1))

COMMENT DEADLINE: Friday, August 18, 2023

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*): (*include name, mailing address, telephone, fax, TTY, e-mail*): Bridget Bagley, 286 Water Street, Augusta, ME 04333-0011; Tele: (207) 287-9394; TTY: 711; Fax: (207) 287-2887; bridget.bagley@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §§ 683(11) and 687(1)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Drug and Alcohol Regulations at 49 CFR, Part 40

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

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