

# Oregon State Board of Education

June 23, 2016

<p><b>SUBJECT:</b> Healthy and Safe Facilities Plan / OAR 581-022-2223 Facilities, Safety and Emergency Planning / OAR 581-024-0275</p> <p><b>STAFF NAME &amp; OFFICE:</b> Cindy Hunt, Deputy Superintendent's Office Emily Nazarov, Deputy Superintendent's Office</p> <p><b>SUMMARY:</b> Proposed new rule and revisions to existing rule would give ODE authority to require school districts and ESDs to (1) develop a plan to ensure that recommendations from leading regulatory authorities on clean air, clean water and healthy environments are implemented to ensure our students and school district staff have a safe and healthy environment; and (2) make information available to the community.</p> <p><input checked="" type="checkbox"/> <b>New Rule</b>    <input checked="" type="checkbox"/> <b>Amend Existing Rule</b>    <input type="checkbox"/> <b>Repeal Rule</b></p>	<p><input type="checkbox"/> <b>Consent Agenda</b></p> <p><input checked="" type="checkbox"/> <b>First Reading</b></p> <p><input type="checkbox"/> <b>Action (Adoption)</b></p> <p><input type="checkbox"/> <b>Information</b></p>
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## BACKGROUND

In April 2016, the Governor directed the Oregon Health Authority (OHA) and the Oregon Department of Education (ODE) to review existing programs, create a plan to address the problem of lead in school drinking water, and take other appropriate actions relating to student safety in schools. As part of that review, ODA and ODE determined that neither agency had an administrative rule requiring school districts to test for lead in drinking water.

Under current law, Oregon public water systems must report all tests for lead at the tap to OHA. OHA then posts that information online in real time for the public, including whether or not the EPA lead action level was exceeded. OHA requires any public water system that exceeds the EPA action level for lead to take corrective actions to reduce the lead in their system and also do public education to the community at large.

While most schools get their water from public water systems, schools are not included when those public water systems test for lead. Lead that is present in pipes and fixtures in building plumbing can still enter the water supply at the school building level. Therefore, a public water system may be deemed to have safe lead levels overall, while water quality at schools remains unknown. Children are especially susceptible to lead exposure because their bodies absorb metals at higher rates than adults. This is why sampling and testing water at the tap in school buildings is so important.

In early June, OHA and ODE issued guidance in the form of recommended actions. The recommendations identified four key steps to be taken by school districts and early learning environments:

1. **Identify sources of lead:** Schools and childcare facilities should test all taps used for drinking or food preparation in the building to identify any lead problems. Follow the Environmental Protection Agency's 3 T's Revised Technical Guidance to ensure that

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samples for lead are collected properly and from the right places. Use an OHA-accredited drinking water laboratory to analyze samples for lead.

2. **Stop access:** Prevent access to water taps that have more than 20 parts per billion (ppb) of lead. This should include shutting off taps, covering water fountains, and providing bottled water to students and staff members.
3. **Communicate:** Make results from tests for lead in water available to students, families, and the community as quickly as possible.
4. **Mitigate and correct:** Replace the sources of lead in building plumbing. Again, EPA 3T's Guidance should be followed.

Now, in collaboration with the Governor's office, ODE is asking the State Board to adopt a new administrative rule (Healthy and Safe Facilities Plan OAR 581-022-2223) and revise an existing administrative rule (Facilities, Safety and Emergency Planning OAR 581-024-0275) to give ODE authority to require school districts and ESDs to test for lead in drinking water and report the results of those tests to the community. In addition, the proposed rule and revisions go beyond lead in the water and require school districts and ESDs to develop a plan to ensure that recommendations from leading regulatory authorities on clean air, clean water and healthy environments are implemented to ensure our students and school district staff have a safe and healthy environment.

The proposed rule and revisions do the following:

1. Require school districts and ESDs to develop a plan to implement recommendations from leading regulatory authorities on clean air, clean water and healthy environments and submit a copy of the plan to ODE;
2. Require ODE to develop a model plan for districts and ESDs; and
3. Require school districts and ESDs to report the results of any tests, monitoring or assessments as well as any proposed repairs or mitigation to the school board, building occupants, community, and ODE.

## **SUMMARY OF PREVIOUS BOARD ACTION**

This is the first time this issue has come before the board. The proposed rule and revisions are before the Board for a first read.

## **CHANGED SINCE LAST BOARD MEETING?**

- N/A; first read—hasn't been before board  
 No; same as last month  
 Yes - As follows:

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## STAFF RECOMMENDATION

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- Approve     Approve at August or September meeting of the State Board  
 No recommendation at this time

**Hearing Date:**

**Prompted by:**

- State law changes     Federal law changes     other

## FISCAL ANALYSIS

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This rule will have a fiscal impact on school districts. Legislative Leadership have stated that they will ask the State's Emergency Board for an allocation in September 2016 to reimburse school districts for the cost of testing for lead in drinking water. However, the fiscal impact will likely exceed any allocation by the Emergency Board.

## ATTACHMENTS

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Attachment 1: Healthy and Safe Facilities Plan / OAR 581-022-2223

Attachment 2: Facilities, Safety and Emergency Planning / OAR 581-024-0275