

MAINE STATE LEGISLATURE

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MATTHEW DUNLAP
SECRETARY OF STATE

STATE OF MAINE
OFFICE
OF THE
SECRETARY OF STATE

February 1, 2016

Mr. Grant Pennoyer, Executive Director
Maine State Legislative Council
115 State House Station
Augusta, ME 04333-0115

Dear Mr. Pennoyer,

Maine Revised Statutes Title 5, §8053-A, sub-§5, provides that by February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council with lists, by agency, of all rules adopted by each agency in the previous calendar year. I am pleased to present the report for 2015.

The list must include, for each rule adopted, the following information:

- A) The statutory authority for the rule and the rule chapter number and title;
- B) The principal reason or purpose for the rule;
- C) A written statement explaining the factual and policy basis for each rule;
- D) Whether the rule was routine technical or major substantive;
- E) If the rule was adopted as an emergency; and
- F) The fiscal impact of the rule.

In 2015, there were 260 rules adopted by 22 agencies. Following is a list of the agencies with the number of rules adopted:

Agency	Total Rules	Routine Technical	Major Substantive	Emergency	Non Emergency
Department of Agriculture, Conservation and Forestry	39	36	3	12	27
Department of Professional and Financial Regulation	40	40	0	0	40
Department of Corrections	5	5	0	3	2
Department of Education	12	11	1	1	11
Department of Environmental Protection	26	24	2	1	25
Department of Inland Fisheries and Wildlife	11	11	0	0	11
Department of Health and Human Services	42	39	3	7	35
Department of Labor	2	2	0	0	2
Department of Marine Resources	28	28	0	7	21
Department of Public Safety	2	1	1	0	2

Agency	Total Rules	Routine Technical	Major Substantive	Emergency	Non Emergency
Department of Transportation	7	6	1	0	7
Department of Administrative and Financial Services	15	15	0	0	15
Department of Economic and Community Development	1	1	0	0	1
Secretary of State	4	4	0	0	4
Public Utilities Commission	11	10	1	0	11
Workers' Compensation Board	3	3	0	0	3
Maine Health Data Organization	2	2	0	0	2
Commission on Governmental Ethics and Election Practices	1	1	0	0	1
Baxter State Park Authority	1	1	0	0	1
Finance Authority of Maine	3	3	0	1	2
Commission on Indigent Legal Services	2	0	2	1	1
Maine State Housing Authority	3	3	0	0	3
Totals for 2015	260	246	14	33	227


The report is presented in multiple files:

- 1) An Excel spreadsheet, sorted by agency, that includes for each rule -- the agency name and umbrella unit and the rule chapter number, title, statutory authority, effective date, the rule type (i.e. routine technical or major substantive) and whether the rule is an emergency rule. The internal log number used by the APA office is also included so that this Bureau can easily find the complete filing if requested; and
- 2) A Word document for each agency that includes the above information for each rule, as well as the principal reason or purpose for adopting the rule, the basis statement and the fiscal impact of the rule. This information was extracted from the documentation that is required to be filed with our office for each adoption.

If further information is requested for any rule, our office can provide the complete filing which includes additional information including the dates and locations of any hearings held on the proposed rules and public comments received regarding the rule.

If you have any questions regarding the Administrative Procedure Act, please contact me at 626-8400 or Julie Flynn, Deputy Secretary of State at the Bureau of Corporations, Elections and Commissions at 624-7650.

Sincerely,



Matthew Dunlap
Secretary of State

Annual List of Rule-making Activity
Rules Adopted 1/1/2015 to 12/31/2015
Prepared by the Secretary of State

Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-007	01-001	Department of Agriculture, Conservation and Forestry	Ch. 360	The Returnable Beverage Container Law	32 MRS ch. 28 §§1861-1872	Routine Technical	No	01/21/15
2015-118	01-001	Department of Agriculture, Conservation and Forestry (working with the Maine Milk Commission)	Ch. 61	Maine Milk Pool - Cost of Administration	7 MRS §3154	Routine Technical	No	08/01/15
2015-133	01-001	Department of Agriculture, Conservation and Forestry	Ch. 360	The Returnable Beverage Container Law	32 MRS ch. 28 §§1861-1872	Routine Technical	No	07/21/15
2015-203	01-001	Department of Agriculture, Conservation and Forestry	Ch. 31	Rules for Operation of Potato Marketing Improvement Fund	2013 PL Ch. 403; 10 MRS Ch. 110 §1023-N; 7 MRS ch. 103 Art. 1-A	Routine Technical	No	11/02/15
2015-012	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #02-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	02/01/15
2015-019	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #03-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	03/01/15
2015-050	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #04-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	03/29/15
2015-079	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #05-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	05/03/15
2015-102	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #06-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	05/31/15
2015-117	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #07-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	06/28/15
2015-137	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #08-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	08/02/15
2015-157	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #09-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	08/30/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-177	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #10-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	10/04/15
2015-200	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #11-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	11/01/15
2015-229	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #12-15	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	11/29/15
2015-254	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 29	Dealer Margins	7 MRS §2954	Routine Technical	No	12/26/15
2015-260	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Ch. 3, Schedule of Minimum Prices, Order #01-16	5 MRS §8054, 7 MRS §2954	Routine Technical	Yes	01/03/16
2015-090	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 17	Rule Violations; Penalties	8 MRS §§ 263-A, 268, 279-A, B	Routine Technical	No	05/18/15
2015-259	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 9	Ch. 9, Sire Stakes: Section 5, Purse Structure, Sub-section 2	8 MRS §§ 263-A; 268; 279-A, 279-B, 281	Routine Technical	No	12/26/15
2015-075	01-026	Department of Agriculture, Conservation and Forestry, Board of Pesticides Control	Ch. 22	Standards for Outdoor Application of Pesticides by Posered Equipment in Order to Minimize Off-Target Deposition	7 MRS §610(2), 22 MRS §1471-M	Major Substantive	No	05/24/15
2015-076	01-026	Department of Agriculture, Conservation and Forestry, Board of Pesticides Control	Ch. 28	Notification Provisions for Outdoor Pesticide Applications	22 MRS §1471-M(2)(D)	Major Substantive	No	05/24/15
2015-168	01-026	Department of Agriculture, Conservation and Forestry, Board of Pesticides Control	Ch. 31	Certification and Licensing Provisions / Commercial Applicators	22 MRS §1471-D	Routine Technical	No	09/23/15
2015-169	01-026	Department of Agriculture, Conservation and Forestry, Board of Pesticides Control	Ch. 34	Certification and Licensing Provisions / Pesticide Dealers	22 MRS §1471-D	Routine Technical	No	09/23/15

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2015-170	01-026	Department of Agriculture, Conservation and Forestry, Board of Pesticides Control	Ch. 35	Certification and Licensing Provisions / Spray Contracting Firms	22 MRS §1471-D	Routine Technical	No	09/23/15
2015-139	01-669	Department of Agriculture, Conservation and Forestry, Bureau of Forestry (Maine Forest Service)	Ch. 21	Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas	Sec.1 38 MRS §480-E-3 as enacted by PL 2011 ch. 599 and amended by PL 2014 ch. 570	Major Substantive	No	08/30/15
2015-155	01-670	Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, Off-Road Recreational Vehicle Office	Ch. 9	Rules for Snowmobile Capital Equipment Grant-In-Aid Program	12 MRS ch. 220 §1893-3	Routine Technical	No	08/29/15
2015-156	01-670	Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, Off-Road Recreational Vehicle Office	Ch. 10	Rules for Snowmobile Disaster Relief Grant-In-Aid Program	12 MRS ch. 220 §1893-3	Routine Technical	No	08/29/15
2015-082	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps), Zoning Petitions ZP 751 (T9 R7 WELS – Aroostook County)	12 MRS §§ 685-A(7-A), 680	Routine Technical	No	05/05/15
2015-095	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps), Zoning Petitions ZP 749 (Hibberts Gore, Monhegan Island Pt., Muscongus Bay Coastal Islands – Lincoln County; Perkins Twp., Swan Island – Sagadahoc County)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	05/21/15

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2015-100	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards: Designation of Areas of Cultural or Special Significance	12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)	Routine Technical	No	05/29/15
2015-101	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards: Recreational Lodging and Revegetation Standards	12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)	Routine Technical	No	05/29/15
2015-119	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps), Zoning Petition ZP 750 (Shawtown Twp. And T1 R12 – Piscataquis County)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	07/21/15
2015-129	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards (NRPA Consistency and Recreational Gold Prospecting)	12 MRS §§ 684, 685-A(3), 685-C(5)(A); 38 MRS §480-E-1	Routine Technical	No	07/24/15
2015-130	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards (Exceptions to Dimensional Requirements for Public Recreational Facilities)	12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)	Routine Technical	No	07/24/15
2015-131	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards (Treatment of Non-Conforming Lots)	12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)	Routine Technical	No	07/24/15
2015-151	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps), Zoning Petition ZP 755 (Garfield Plt. – Aroostook County)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	08/18/15

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2015-153	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards (Designation of Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance)	12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)	Routine Technical	No	08/24/15
2015-237	01-672	Department of Agriculture, Conservation and Forestry, Maine Land Use Planning Commission	Ch. 10	Land Use Districts and Standards, for Subdivision Technical Issues	12 MRS §685-A(3), 685-C(5)(A)	Routine Technical	No	12/07/15
2015-250	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps), Zoning Petition ZP 756: (Bancroft Twp. - Aroostook County) Zoning Petition ZP 758: (Big Moose Twp. – Piscataquis County)	12 MRS §§ 685-A(7-A), 680	Routine Technical	No	12/22/15

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2015-051	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 420	Nursing Home Care Insurance and Long Term Care Insurance	24-A MRS §§ 212, 5052, 5053, 5078, 5083	Routine Technical	No	03/30/15
2015-052	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 425	Long Term Care Insurance	24-A MRS §§ 212, 5052, 5053, 5078, 5083	Routine Technical	No	03/30/15
2015-091	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 917	Annuity Suitability	24-A MRS §§ 212, 2517	Routine Technical	No	11/01/15
2015-103	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 915	Annuity Disclosure	24-A MRS §§ 212, 2151-B	Routine Technical	No	05/31/15
2015-228	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 920	Reporting of Fraudulent Insurance Acts	24-A MRS §§ 212, 2186	Routine Technical	No	11/25/15
2015-241	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 730	Standards for Acceptance of Reinsurance of Workers' Compensation Self-Insurance	24-A MRS §§ 212, 222, 410, 412, 413, 421, 422, 731-B; 39-A MRS §403	Routine Technical	No	12/09/15

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2015-210	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 501	Definitions	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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2015-211	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 503	Variances	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-212	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 507	Advisory Rulings	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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2015-213	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 511	National Codes Applicable to Elevators and Tramways	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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2015-214	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 513	Elevators	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-215	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 515	Tramways	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-216	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 521	Elevator Owners' Duties and Responsibilities	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-217	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 523	Tramway Owners' Duties and Responsibilities	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-218	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 531	Licensed Private Elevator Inspectors	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-219	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 533	Licensed Private Tramway Inspectors	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-220	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 535	Licensed Wire Rope Inspectors	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-221	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 537	Licensed Elevator Mechanics	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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2015-222	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 539	Licensed Lift Mechanics	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-223	02-041	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Elevator and Tramway Safety Program	Ch. 541	Elevator Contractors	5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202, 15204, 15205-A, 15208, 15208-A, 15209, 15209-A, 15211, 15212, 15213, 15214, 15216, 15216-C, 15221, 15224, 15225-A, 15226, 15227, 15228, 15229	Routine Technical	No	12/01/15
2015-245	02-298	Department of Professional and Financial Regulation, Board of Real Estate Appraisers	Ch. 240	Standards of Professional Practice	32 MRS §14012(3)	Routine Technical	No	01/01/16
2015-116	02-313	Department of Professional and Financial Regulation, Maine Board of Dental Examiners	Ch. 17	Requirements for Establishing a Board Approved Dental Hygiene Therapy Program	PL 2014 ch. 575 of the 126th Maine Legislature (Second Regular Session (LD 1230)); 32 MRS §1073 (2)	Routine Technical	No	06/29/15

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Log #	Umbrella/ unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2015-238	02-313	Department of Professional and Financial Regulation, Maine Board of Dental Examiners (Affiliated)	Ch. 16	Rules for Independent Practice Dental Hygienists to Process Dental Radiographs	Public Law 2015 ch. 192 of the 127th Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2)	Routine Technical	No	12/05/15
2015-244	02-313	Department of Professional and Financial Regulation, Maine Board of Dental Examiners	Ch. 5	Requirements for Licensure as a Denturist	PL 2015 ch. 192 127th Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2)	Routine Technical	No	12/15/15
2015-033	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 10	Definitions	32 MRS §5506(4)	Routine Technical	No	04/01/15
2015-034	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 40	Qualifications for Intern Forester License	32 MRS §§ 5506(1), (2) and 5514(2)	Routine Technical	No	04/01/15
2015-035	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 50	Variance from Educational Qualifications for Issuance of an Intern Forester License	32 MRS §§ 5506(1), (2), 5514(2)	Routine Technical	No	04/01/15

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2015-036	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 60	Sponsorship of Intern Foresters	32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)	Routine Technical	No	04/01/15
2015-037	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 70	Qualifications for Forester License	32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)	Routine Technical	No	04/01/15
2015-038	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 80	Continuing Forestry Education	32 MRS §§ 5506(4), 5514(4); 5515(7)	Routine Technical	No	04/01/15
2015-039	02-333	Department of Professional and Financial Regulation, Board of Licensure of Foresters	Ch. 110	Transitions Provisions	32 MRS §5506(4)	Routine Technical	No	04/01/15
2015-021	02-373	Department of Professional and Financial Regulation, Board of Licensure in Medicine	Ch. 4	Rules for the Issuance of Citations	10 MRS §8003-E; 32 MRS §3269(7)	Routine Technical	No	03/10/15
2015-049	02-380	Department of Professional and Financial Regulation, Maine State Board of Nursing	Ch. 4	Disciplinary Action and Violations of Law	32 MRS §2153-A(1)	Routine Technical	No	03/25/15
2015-158	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 820	Definitions	10 MRS §§ 9005-A, 9085	Routine Technical	No	08/30/15
2015-159	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 830	Licensure of Manufactured Housing Communities	10 MRS §§ 9005-A, 9085	Routine Technical	No	08/30/15

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2015-160	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 840	Rules Relating to Drinking Water Systems of Manufactured Housing Communities	10 MRS §§ 9005-A, 9084, 9085; 5 MRS §9001	Routine Technical	No	08/30/15
2015-161	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 850	Community Licensing - Standards	10 MRS §§ 9005-A, 9085	Routine Technical	No	08/30/15
2015-162	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 860	Inspections and Complaints	10 MRS §§ 9005-A, 9085, 9086	Routine Technical	No	08/30/15
2015-206	02-465	Department of Professional and Financial Regulation, Radiologic Technology Board of Examiners	Ch. 8	Scope of Practice	32 MRS §9853(6)(E)	Routine Technical	No	11/07/15
2015-240	02-658	Department of Professional and Financial Regulation, Maine Fuel Board	Ch. 13	Installation of Propane and Natural Gas Burning Equipment	32 MRS §18123(2)	Routine Technical	No	12/08/15

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2015-163	03-201	Department of Corrections	Ch. 3	County Jail Operations Fund Distribution of Funds Formula	34-A MRS §§ 1208-B, 1210-D	Routine Technical	Yes	08/31/15
2015-187	03-201	Department of Corrections	Ch. 10	Policy and Procedures Manual – Adult: Subsection 27.3, Community Transition Program	34-A MRS §3035	Routine Technical	Yes	10/21/15
2015-207	03-201	Department of Corrections	Ch. 3	County Jail Operations Fund Distribution of Funds Formula	34-A MRS §§ 1208-B, 1210-D	Routine Technical	No	11/09/15
2015-208	03-201	Department of Corrections	Ch. 10	Policy and Procedures Manual – Adult: Subsection 27.4, Furlough Pass / Furlough Leave Program	34-A MRS §3035	Routine Technical	No	11/09/15
2015-224	03-201	Department of Corrections	Ch. 10	Policy and Procedures Manual – Adult: Subsection 27.3, Community Transition Program	34-A MRS, §3035	Routine Technical	Yes	11/12/15

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2015-040	05-071	Department of Education	Ch. 180	Performance Evaluation and Professional Growth Systems	20-A MRS §13706	Routine Technical	Yes	03/18/15
2015-092	05-071	Department of Education	Ch. 125	Basic Approval Standards: Public Schools and School Administrative Units	20-A MRS §4801 sub-§1 ¶F	Routine Technical	No	05/14/15
2015-111	05-071	Department of Education	Ch. 101	Maine Unified Special Education Regulation - Birth to Age Twenty	20-A MRS §7005(1)	Major Substantive	No	07/19/15
2015-115	05-071	Department of Education	Ch. 13	Qualifying Examinations by Teachers, Educational Specialists and Administrators	20-A MRS §§ 13031 - 13038, 13035-A	Routine Technical	No	06/23/15
2015-231	05-071	Department of Education	Ch. 21	Secular Textbooks and Services to Private School Pupils	Repealed	Routine Technical	No	11/28/15
2015-232	05-071	Department of Education	Ch. 25	Administration of Special Education Adjustments: Definition of Budgetary Hardship	Repealed	Routine Technical	No	11/28/15
2015-233	05-071	Department of Education	Ch. 27	Rules for Determining Geographic Isolation Status	Repealed	Routine Technical	No	11/28/15
2015-234	05-071	Department of Education	Ch. 58	Child Nutrition Programs in Child Care Centers and Recreational Center and Camps	Repealed	Routine Technical	No	11/28/15
2015-235	05-071	Department of Education	Ch. 120	Innovative Education Grants	Repealed	Routine Technical	No	11/28/15
2015-236	05-071	Department of Education	Ch. 245	Standards for Education Programming for Certified Nursing Assistants	Repealed	Routine Technical	No	11/28/15
2015-243	05-071	Department of Education	Ch. 45	Rule for Health Screening in Maine Public Schools	20-A MRS §§ 6451-6455	Routine Technical	No	12/13/15

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2015-248	05-071	Department of Education	Ch. 125	Basic School Approval Standards: Public Schools and School Administrative Units	20-A MRS §§ 6451-6455	Routine Technical	No	12/19/15

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2015-002	06-096	Department of Environmental Protection	Ch. 500	Stormwater Management	38 MRS §420-D	Routine Technical	No	01/11/15
2015-003	06-096	Department of Environmental Protection	Ch. 501	Stormwater Management Compensation Fees and Mitigation Credit	38 MRS §420- D(11)	Routine Technical	No	01/13/15
2015-009	06-096	Department of Environmental Protection	Ch. 1000	Guidelines for Municipal Shoreland Zoning Ordinances	Title 38 MRS §438-A(5)	Routine Technical	No	01/26/15
2015-015	06-096	Department of Environmental Protection	Ch. 3	Rules Governing the Conduct of Licensing Hearings	5 MRS §38 MRS §341-H; PL 2013 c. 300	Routine Technical	No	02/16/15
2015-030	06-096	Department of Environmental Protection	Ch. 850	Identification of Hazardous Waste	38 MRS §§ 1319(O)(1), 2144	Routine Technical	No	03/11/15
2015-031	06-096	Department of Environmental Protection	Ch. 858	Universal Waste Rules	38 MRS §§ 1319(O)(1), 2144	Routine Technical	No	03/11/15
2015-053	06-096	Department of Environmental Protection	Ch. 696	Oil Discharge and Pollution Control Rules for Rail Tank Cars	38 MRS §§ 341- H, 546	Routine Technical	Yes	03/26/15
2015-059	06-096	Department of Environmental Protection	Ch. 400	Maine Solid Waste Management Rules: General Provisions	38 MRS §§ 341- H, 1301 et seq., 1304 (1,1-B,13,13- A), 1310-N(9)	Routine Technical	No	04/06/15
2015-060	06-096	Department of Environmental Protection	Ch. 418	Maine Solid Waste Management Rules: Beneficial Use of Solid Wastes	38 MRS §§ 341- H, 1301 et seq., 1304 (1,1-B,13,13- A),1310-N (9)	Routine Technical	No	04/06/15

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2015-066	06-096	Department of Environmental Protection	Ch. 401	Landfill Siting Design and Operation	38 MRS §§ 341-H, 1301 et seq., 1304(1,1-B, 13,13-A)	Routine Technical	No	04/12/15
2015-067	06-096	Department of Environmental Protection	Ch. 402	Transfer Station and Storage Sites for Solid Waste	38 MRS §§ 341-H, 1301 et seq., 1304(1,1-B, 13,13-A)	Routine Technical	No	04/12/15
2015-068	06-096	Department of Environmental Protection	Ch. 403	Incineration Facilities	38 MRS §§ 341-H, 1301 et seq., 1304 (1,1-B, 13,13-A)	Routine Technical	No	04/12/15
2015-069	06-096	Department of Environmental Protection	Ch. 405	Water Quality Monitoring, Leachate Monitoring, and Waste Characterization	38 MRS §§ 341-H, 1301 et seq., 1304 (1, 1-B, 13,13-A)	Routine Technical	No	04/12/15
2015-070	06-096	Department of Environmental Protection	Ch. 410	Composting Facilities	38 MRS §§ 341-H, 1301 et seq., 1304 (1, 1-B, 13,13-A)	Routine Technical	No	04/12/15
2015-071	06-096	Department of Environmental Protection	Ch. 419	Agronomic Utilization of Residuals	38 MRS §§ 341-H, 1301 et seq., 1304 (1,1-B,13,13-A)	Routine Technical	No	04/12/15
2015-093	06-096	Department of Environmental Protection	Ch. 127	New Motor Vehicle Emissions Standards	38 MRS §585-D	Routine Technical	No	05/19/15

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2015-110	06-096	Department of Environmental Protection	Ch. 119	Motor Vehicle Fuel Volatility Limit	38 MRS §§ 585-A, 585-N; Resolves 2015 ch. 10	Major Substantive	No	07/15/15
2015-113	06-096	Department of Environmental Protection	Ch. 696	Oil Discharge and Pollution Control Rules for Rail Tank Cars	38 MRS §§ 341- H, 546	Routine Technical	No	06/22/15
2015-114	06-096	Department of Environmental Protection	Ch. 888	Designation of Four Members of the Chemical Class Phthalates as Priority Chemicals	5 MRS §8055(3), 38 MRS §341-H, §1694	Routine Technical	No	06/22/15
2015-120	06-096	Department of Environmental Protection	Ch. 129	Surface Coating Facilities	38 MRS §585-A	Routine Technical	No	07/07/15
2015-132	06-096	Department of Environmental Protection	Ch. 500	Stormwater Management	38 MRS §420-D; Resolve 2015 ch. 22	Major Substantive	No	08/12/15
2015-134	06-096	Department of Environmental Protection	Ch. 885	Designation of Formaldehyde as a Priority Chemical and Regulation of Formaldehyde in Children's Products	5 MRS §8055(3), 38 MRS §§ 341- H, 1694	Routine Technical	No	07/26/15
2015-136	06-096	Department of Environmental Protection	Ch. 141	Conformity of General Federal Actions	38 MRS §§ 585, 585-A	Routine Technical	No	07/27/15
2015-185	06-096	Department of Environmental Protection	Ch. 2	Rule Concerning the Processing of Applications and Other Administrative Matters	5 MRS §8051; 38 MRS §341-H	Routine Technical	No	10/19/15
2015-013	06-481	Department of Environmental Protection, Board of Underground Storage Tank Installers	Ch. 3	Certification of Underground Oil Tank Installers	32 MRS §10004	Routine Technical	No	02/15/15

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2015-014	06-481	Department of Environmental Protection, Board of Underground Storage Tank Installers	Ch. 6	Certification of Underground Oil Storage Tank Inspectors	32 MRS §10004.2	Routine Technical	No	02/15/15

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2015-028	09-137	Department of Inland Fisheries and Wildlife	Ch. 13	Watercraft Rules	12 MRS §13051	Routine Technical	No	03/14/15
2015-029	09-137	Department of Inland Fisheries and Wildlife	Ch. 24	Licensed Guides	12 MRS §12851	Routine Technical	No	03/14/15
2015-061	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.06(1.B., 4, 5, 6), Wild Turkey	12 MRS §11701	Routine Technical	No	04/08/15
2015-088	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.05, Moose Hunting	12 MRS §11551	Routine Technical	No	05/13/15
2015-148	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.01(G)(2-A), (J). (K), Furbearer Trapping Rules	12 MRS §10104	Routine Technical	No	08/18/15
2015-149	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.03, Deer Hunting	12 MRS §11152	Routine Technical	No	08/16/15
2015-150	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.02, Migratory Bird Hunting	12 MRS §§ 10104, 11855	Routine Technical	No	08/18/15
2015-172	09-137	Department of Inland Fisheries and Wildlife	Ch. 4	Hunting and Trapping: 4.01(G), Upland Game and Furbearing Animals: (1.a, Beaver Season Dates); (1.b, Open and Closed Areas for Beaver Trapping)	12 MRS §10104	Routine Technical	No	09/27/15
2015-178	09-137	Department of Inland Fisheries and Wildlife	Ch. 1	Open Water and Ice Fishing Regulations	12 MRS §§ 10104, 12461	Routine Technical	No	10/05/15
2015-179	09-137	Department of Inland Fisheries and Wildlife	Ch. 1-A	State Heritage Fish Waters	12 MRS §§ 10104, 12461	Routine Technical	No	10/05/15
2015-180	09-137	Department of Inland Fisheries and Wildlife	Ch. 2	Rules Pertaining to Commercial Fishing, Fish Culture and, Fishing Derbies and Tournaments	12 MRS §§ 10104, 12461	Routine Technical	No	10/05/15

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2015-054	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III §26, Day Health Services	22 MRS §§ 42, 3173	Routine Technical	No	03/31/15
2015-055	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II §113, Non-Emergency Transportation (NET) Services	22 MRS §§ 42, 3173; Social Security Act §1915(b), 42 U.S.C. 1396n; Rosa's Law, Pub. L. 111-256; PL 2012, ch. 542, §B(5)	Routine Technical	No	04/05/15
2015-062	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 15, Chiropractic Services	22 MRS §§ 42, 3173	Routine Technical	No	04/10/15
2015-065	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II & III Section 65, Behavioral Health Services	22 MRS §§ 42, 3173; 22 MRS §3174-WW and 22 MRS §42(8)	Routine Technical	No	04/13/15
2015-094	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 21, Allowances for Home and Community Benefits for Adults with Intellectual Disabilities or Autistic Disorder	22 MRS §§ 42, 3173; PL 2013 §SS-2; Resolves 2015 ch. 1	Major Substantive	No	06/14/15
2015-105	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III & III Section 5, Ambulance Services	22 MRS §§ 42, 3173; PL 2013 ch. 441	Routine Technical	No	06/03/15

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2015-106	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III & III Section 35, Hearing Aids and Services	22 MRS §§ 42, 3173	Routine Technical	No	06/13/15
2015-107	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 60, Medical Supplies and Durable Medical Equipment	22 MRS §§ 42, 3173; §440.70 (b)(3), PL 2012 ch. 542 §B (5), 42 CFR, Part 440 Public Law 111- 256, (also referred to as "Rosa's Law"), PL111-148, Subtitle F, Section 6505	Routine Technical	No	06/13/15
2015-122	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 45, Hospital Services	22 MRS §§ 42, 3173	Routine Technical	No	07/07/15
2015-124	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder	22 MRS §§ 42, 3173; PL 2013 ch. 368 §SS-2; Resolve ch. 24 (LD 8)	Major Substantive	No	08/08/15
2015-167	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II & III Section 67, Nursing Facility Services	22 MRS §§ 42, 3173; PL 2014 ch. 582	Routine Technical	No	09/15/15

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2015-181	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 45, Hospital Services	22 MRS §§ 42, 3173; 5 MRS §8054; PL 2015 Ch. 267 Part A, UU	Routine Technical	Yes	10/01/15
2015-188	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 2, Adult Family Care Services	22 MRS §§ 42(8), 3173; PL 2015 ch. 267, 702 – L.D. 1019, Parts A, UU, UUUU	Routine Technical	Yes	07/01/15
2015-201	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II & III Section 96, Private Duty Nursing and Personal Care Services	22 MRS §§ 42(8), 3173; 5 MRS §8054; PL 2015 ch. 267, Parts A, UU	Routine Technical	Yes	07/01/15
2015-202	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II & III Section 19, Home and Community Benefits for the Elderly and for Adults with Disabilities	22 MRS §§ 42(8), 3173, Part UU Sec. UU-1; 5 MRS §8054, P.L. 2015 Ch. 267 (Sec. A-32)	Routine Technical	Yes	07/01/15
2015-225	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 67, Principles of Reimbursement for Nursing Facilities	22 MRS §§ 42(8), 3173; P. L. 2015 Parts A & UU; Resolves 2015 ch. 34	Routine Technical	Yes	07/01/15

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2015-230	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 80, Pharmacy Services	22 MRS §§ 42, 3173; 22 MRS § 3174-WW; PL 2012 ch.542, §B- 5	Routine Technical	No	11/29/15
2015-239	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 32, Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders	22 MRS §§ 42, 3173	Routine Technical	No	12/09/15
2015-255	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	Ch. MaineCare Benefits Manual: Ch. III Section 45, Hospital Services	22 MRS §§ 42, 3173; P.L. 2015 ch. 267, Part A	Routine Technical	No	12/31/15
2015-261	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	Ch. 101, MaineCare Benefits Manual: Ch. II Section 55, Laboratory Services	22 MRS §§ 42, 3173	Routine Technical	No	01/02/16
2015-138	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC), Division of Environmental Health, Drinking Water Program - Wastewater Unit	Ch. 241	Subsurface Wastewater Disposal Rules	22 MRS ch. 1683 §8704 sub-§4, and §8708	Routine Technical	No	08/03/15
2015-166	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 258	Rules for the Control of Notifiable Diseases and Conditions	22 MRS §42(1); 22 MRS ch. 250; 5 MRS ch. 501	Routine Technical	No	09/08/15

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2015-072	10-144	Department of Health and Human Services, Office of MaineCare Services, Office for Family Independence	Ch. 301	Food Supplement Program, Rule #184A: Trafficking Controls and EBT Card Replacements	22 MRS §§ 42(1), 3104; 7 CFR §§ 274.6(b) et seq.; 7 CFR §271.2(6); 7 CFR §274.2(f)	Routine Technical	No	04/20/15
2015-144	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, Rule #190A: Overpayment Compromise (FS-777-3 pages 1–5)	22 MRS §§ 42(1), 3104, 7 CFR 273.18	Routine Technical	No	08/10/15
2015-176	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Maine Food Supplement Certification Manual, Rule #193E: SUA Changes for FFY 2016 (FS-555-5 pages 1-11)	22 MRS §§ 42, 3104; 5 MRS §8054	Routine Technical	Yes	10/01/15
2015-251	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, Rule #191A: Broad Based Categorical Eligibility – Shelters for Battered Persons	22 MRS §§ 42(1), 3104; 7 CFR 273.2(j); 7 CFR 273.8(e)(17)	Routine Technical	No	01/01/16
2015-256	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, Rule #193A: SUA-COLA Changes for FFY 2016	22 MRS §§ 42(1), 42(8), 3104	Routine Technical	No	Varied effective dates
2015-004	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule 104A: Ch. I, Eligibility Process, Non-Payment Situations (Felony Drug Convictions)	PL 2011 ch. 380 §A-33 page 344; 22 MRS §3769-A, §3762 sub-§20	Routine Technical	No	01/13/15

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2015-016	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, Rule #276A, Cost of Care: Part 12, Residential Care: Section 1, Living Arrangements; Section 4.3.1, Determining the Cost of Care for an Individual; Section 4.3.2, Determining Cost of Care for a Couple; Section 4.3.3, Determining Cost of Care for an Individual or Couple Open on SSI	22 MRS §§ 42(1), 3173	Routine Technical	No	02/18/15
2015-041	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, Rule #277A, Brain Injury Waiver: Part 6, Supplemental Security Income; Part 13, Home and Community-Based Waiver	22 MRS §§ 42(1), 42(8), 3173, 3174	Routine Technical	No	07/01/14
2015-204	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, Rule #280A: Part 18, Presumptive Eligibility Determined by Hospitals	22 MRS §§ 42(1), 3173; 42 CFR 435.1110	Routine Technical	No	11/02/15
2015-252	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, Rule #279A: Charts 3, 4, Updated Federal Poverty Levels, Cost of Living Adjustments, and Spousal Impoverishment Standards	22 MRS §§ 42, 42(8), 3173, 3174 et seq. 42 VSC §1396a; 20 CFR §§ 416.2095, 416.2096	Routine Technical	No	Varied effective dates

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2015-257	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, Rule #275A: Part 2 Section 13, Eligibility Periods / Reviews	22 MRS §§ 42(1), 254-D, 3173	Routine Technical	No	12/30/15
2015-182	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 333	Low Cost Drugs for the Elderly and Disabled Eligibility Manual, Rule #275E: Section 2.1, Implementation of an Asset Test for DEL; Section 3, Continued Eligibility	5 MRS §8054; PL 2015 Ch. 267, Parts TT, UU; 22 MRS §§ 42(1), 254-D, 3173	Routine Technical	Yes	10/01/15
2015-258	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 333	Low Cost Drugs for the Elderly and Disabled Eligibility Manual, Rule #275A: Section 2.1, Assets; Section 3, Continued Eligibility	22 MRS §§ 42(1), 254-D, 3173; PL 2015 ch. 267, Parts TT, UU	Routine Technical	No	12/30/15
2015-042	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 609	Food Supplement - Employment and Training (FSET) Program Rules, Rule #3A (formerly OFI ASPIRE/JET)	22 MRS §3104; 7 CFR §273.7 & 7 U.S.C. 2015(d)(4)	Routine Technical	No	04/01/15
2015-146	10-144	Department of Health & Human Services, Maine Center for Disease Control and Prevention, Division of Population Health - Children with Special Health Needs	Ch. 709	Critical Congenital Heart Defects Screening	22 MRS §1532	Routine Technical	No	09/01/15
2015-205	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 720	Rules Governing the Implementation of Expedited Partner Therapy	22 MRS §42(1); 22-A MRS §205(2); 22 MRS §1242	Routine Technical	No	11/04/15

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2015-074	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 6	Child Care Subsidy Program Rules	22 MRS §42	Routine Technical	No	04/21/15
2015-145	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 577	Alumni Transition Grant Program Rules	22 MRS §4010-C	Routine Technical	No	08/12/15
2015-108	14-118	Department of Health and Human Services, Office of Substance Abuse	Ch. 11	Rules Governing the Controlled Substances Prescription Monitoring Program	22 MRS §7249, §7252	Major Substantive	No	07/11/15
2015-005	14-197	Department of Health and Human Services, Office of Aging and Disability Services	Ch. 8	Rule Describing Grievance Process for Persons with Intellectual Disabilities and Autism	34-B MRS §5604(3)	Routine Technical	No	01/14/15

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2015-017	12-172	Department of Labor, Unemployment Insurance Commission	Ch. 10	Work Search Requirements	26 MRS §§1082(2), 1192(3)	Routine Technical	No	02/23/15
2015-249	12-597	Department of Labor, Bureau of Employment Services	Ch. 2	Rule Governing the Competitive Skills Scholarship Program	26 MRS §2033	Routine Technical	No	12/22/15

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2015-008	13-188	Department of Marine Resources	Ch. 24	Importation of Live Marine Organisms: 24.10(4)(F), Restricted Area for American Oyster	12 MRS §§ 6071, 6171(3)	Routine Technical	Yes	01/21/15
2015-020	13-188	Department of Marine Resources	Ch. 11	Scallops: Targeted Closures - Cobscook Bay, Whiting & Dennys Bays, St. Croix River, Inner Little Kennebec / Englishman Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River, Casco Bay	12 MRS §6171(3)	Routine Technical	Yes	02/28/15
2015-022	13-188	Department of Marine Resources	Ch. 24	Importation of Live Marine Organisms: 24.10(4)(F), Maine – Restricted Area for American Oyster	12 MRS §6071, §6171	Routine Technical	No	3/09/2015
2015-023	13-188	Department of Marine Resources	Ch. 25	Lobster and Crab: 25.04, Lobster Trawl Limits; 25.07, Management Framework for Island Limited Entry Program	12 MRS §§ 6171, 6439-A, 6449	Routine Technical	No	03/09/15
2015-024	13-188	Department of Marine Resources	Ch. 25	Lobster and Crab: 25.08, Lobster Trap Tag System	12 MRS §§ 6171, 6192(4); 5 MRS §8054	Routine Technical	No	03/09/15
2015-025	13-188	Department of Marine Resources	Ch. 32	Eels: Requirements for 2015 Harvesting Season	12 MRS §§ 6171, 6173, 6505-A, 6575-B	Routine Technical	No	03/09/15
2015-026	13-188	Department of Marine Resources	Ch. 40	Smelt Regulations	12 MRS §6171	Routine Technical	No	03/09/15

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2015-047	13-188	Department of Marine Resources	Ch. 45	Shrimp	12 MRS §6171(3)	Routine Technical	Yes	03/20/15
2015-084	13-188	Department of Marine Resources	Ch. 32	Eels: 32.07, Elver Harvesting Limitations; Gear	12 MRS §6171(3)	Routine Technical	Yes	05/08/15
2015-085	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.10, Maine Groundfish Management Plan	12 MRS §§ 6171(3), 6192	Routine Technical	Yes	05/09/15
2015-086	13-188	Department of Marine Resources	Ch. 42	Striped Bass: Striped Bass Minimum Size, Option B	12 MRS §6171	Routine Technical	No	05/13/15
2015-087	13-188	Department of Marine Resources	Ch. 75	Protected Resources	12 MRS §6171	Routine Technical	No	05/13/15
2015-141	13-188	Department of Marine Resources	Ch. 26	Sea Urchin Regulations and 2015- 2016 Harvesting Season	12 MRS §§ 6171, 6173, 6749	Routine Technical	No	08/08/15
2015-142	13-188	Department of Marine Resources	Ch. 8	Landings Program	12 MRS §§ 6171, 6173, 6749	Routine Technical	No	08/08/15
2015-143	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.10(B), Maine Groundfish Management Plan: Size, Possession and Gear Restrictions	12 MRS §6171	Routine Technical	No	08/08/15
2015-189	13-188	Department of Marine Resources	Ch. 115	<i>Vibrio parahaemolyticus</i> Control Plan	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-190	13-188	Department of Marine Resources	Ch. 9	Harvester: Shellstock Harvesting, Handling and Sanitation	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-191	13-188	Department of Marine Resources	Ch. 15	General Shellfish Sanitation Requirements	12 MRS §6171-A	Routine Technical	No	01/01/16

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2015-192	13-188	Department of Marine Resources	Ch. 16	Uniform Physical Plant Equipment and Operation Requirements	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-193	13-188	Department of Marine Resources	Ch. 17	Shucker-Packer	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-194	13-188	Department of Marine Resources	Ch. 18	Shellstock Shipping	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-195	13-188	Department of Marine Resources	Ch. 19	Reshipper	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-196	13-188	Department of Marine Resources	Ch. 20	Depuration	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-197	13-188	Department of Marine Resources	Ch. 22	Retail Shellfish	12 MRS §6171-A	Routine Technical	No	01/01/16
2015-198	13-188	Department of Marine Resources	Ch. 26	Sea Urchins: Sea Urchin Regulations and Targeted Closures	12 MRS §6171	Routine Technical	No	10/26/15
2015-199	13-188	Department of Marine Resources	Ch. 11	Scallops (Atlantic Sea Scallop Regulations and 2015-2016 Harvesting Season)	12 MRS §§ 6171, 6722	Routine Technical	No	10/26/15
2015-246	13-188	Department of Marine Resources	Ch. 11	Scallops: 11.22, Targeted Closures (1), (12), (13), (14) - Muscle Ridge, Gouldsboro and Dyer Bays, Wohoa Bay and Jonesport Reach and Inner Machias Rotational Area	12 MRS §6171(3)	Routine Technical	Yes	12/13/15
2015-247	13-188	Department of Marine Resources	Ch. 45	Shrimp: 45.05, Shrimp Season (moratorium)	12 MRS §6171(3)	Routine Technical	Yes	12/11/15

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2015-006	16-163	Department of Public Safety, Bureau of Emergency Medical Services	Ch. 18	Quality Assurance and Improvement	32 MRS §§ 84(1), 88(2)(J), 92-A(1)	Routine Technical	No	02/01/15
2015-096	16-222	Department of Public Safety, Bureau of State Police	Ch. 4	Maine Motor Carrier Safety Regulation	29-A MRS §555	Major Substantive	No	06/19/15

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2015-098	17-229	Department of Transportation	Ch. 206	Rules for the Installation of Gas, Food, Lodging, Camping and Attractions Logo Signs on the Rural Portions of the Interstate Highway System	23 MRS §1912-B; 23 MRS §52	Routine Technical	No	05/27/15
2015-125	17-229	Department of Transportation	Ch. 200	Regulations for the Installation of Official Business Directional Signs	23 MRS ch. 21 §§ 1901-1925; 23 MRS §52	Routine Technical	No	07/15/15
2015-126	17-229	Department of Transportation	Ch. 201	Regulations for the Location of Political Posters and Signs	23 MRS ch. 21 §§ 1901-1925; 23 MRS §52	Routine Technical	No	07/15/15
2015-127	17-229	Department of Transportation	Ch. 203	Regulations for Categorical Signs Permitted Outside the Right-of-Way	23 MRS ch. 21 §§ 1901-1925; 23 MRS §52	Routine Technical	No	07/15/15
2015-128	17-229	Department of Transportation	Ch. 205	Rules for Administering the Maine Traveler Information Services Act	23 MRS ch. 21 §§ 1901-1925; 23 MRS §52	Routine Technical	No	07/15/15
2015-135	17-229	Department of Transportation	Ch. 310	Rules for Permitting Overlimit Commercial Vehicles of Specified Configurations to Travel Designated Routes	29-A MRS §2354- 1	Major Substantive	No	08/21/15
2015-001	17-387	Department of Transportation, Maine Pilotage Commission	Ch. 1	Rules and Regulations	38 MRS §90	Routine Technical	No	01/10/15

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2015-048	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 208	Revaluation Guidelines	36 MRS §§ 112, 328, 330, 331	Routine Technical	No	03/24/15
2015-056	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 801	Apportionment	36 MRS §112	Routine Technical	No	04/05/15
2015-057	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 803	Withholding Tax Reports and Payments	36 MRS §112	Routine Technical	No	04/05/15
2015-058	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 805	Composite Filing	36 MRS §112	Routine Technical	No	04/05/15
2015-064	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 202	Tree Growth Tax Law Valuations - 2015	36 MRS §576	Routine Technical	No	04/12/15
2015-077	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 601	Estate Tax	36 MRS §112	Routine Technical	No	04/28/15
2015-078	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 603	Maine Estate Tax after 2012	36 MRS §112	Routine Technical	No	04/28/15

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2015-080	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 813	Property Tax Fairness Credit	36 MRS §§ 112, 5219-KK	Routine Technical	No	05/05/15
2015-081	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 901	Maine Residents Property Tax Program	36 MRS §112	Routine Technical	No	05/05/15
2015-099	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 812	Credit for Educational Opportunity	36 MRS §§ 112, 5217-D	Routine Technical	No	05/27/15
2015-112	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 201	Rules of Procedure Used to Develop State Valuation	36 MRS §§ 112, 201, 208, 305	Routine Technical	No	06/23/15
2015-123	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 102	Electronic Funds Transfer (EFT)	36 MRS §112	Routine Technical	No	07/11/15
2015-154	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 205	Certification of Assessors	36 MRS §§ 310-314	Routine Technical	No	08/26/15

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2015-083	18-553	Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations (BABLO) / Maine State Liquor and Lottery Commission	Ch. 50	Lucky for Life Rules	8 MRS §372 sub-§2	Routine Technical	No	05/10/15
2015-227	18-553	Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operation(BABLO) / Maine State Liquor and Lottery Commission	Ch. 20	Powerball Rules	8 MRS §374, §372 sub-§2	Routine Technical	No	11/24/15

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2015-242	19-498	Department of Economic and Community Development	Ch. 44	Community Development Block Grant Program: 2016 Final Statement	5 MRS §13058 sub-§2	Routine Technical	No	12/12/15

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2015-027	29-250	Secretary of State	Ch. 950	Rules Governing the Use of Digital Signatures	10 MRS §9503	Routine Technical	No	03/15/15
2015-032	29-250	Secretary of State, Bureau of Motor Vehicles	Ch. 162	The Administration of the International Registration Plan	29-A MRS §531	Routine Technical	No	03/17/15
2015-140	29-250	Secretary of State, Bureau of Motor Vehicles	Ch. 9	Rules Governing Driver Education	29-A MRS §1354 sub-§3	Routine Technical	No	08/08/15
2015-164	29-250	Secretary of State, Bureau of Motor Vehicles	Ch. 170	Permitting Commercial Vehicles at Canadian Weight Limits to Travel from Designated Points at the Canadian Border to Baileyville, Madawaska, and Van Buren	29-A MRS §2354- C; PL 2015 ch. 119	Routine Technical	No	09/06/15

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2015-010	65-407	Public Utilities Commission	Ch. 305	Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity	35-A MRS §§ 104, 111, 3203	Routine Technical	No	01/26/15
2015-011	65-407	Public Utilities Commission	Ch. 306	Uniform Information Disclosure	35-A MRS §§ 104, 111, 1301, 3203(3), 3203(4)	Routine Technical	No	01/26/15
2015-018	65-407	Public Utilities Commission	Ch. 615	Exemptions from Regulatory Requirements for Consumer-Owned Water Utilities	35-A MRS §6114	Routine Technical	No	02/22/15
2015-043	65-407	Public Utilities Commission	Ch. 401	Certification Program for Installers of Solar Energy Equipment in Maine	PL 2001 ch. 624, PL 2003 ch. 20, PL 2003 ch. 644, PL 2009 ch. 372, PL 2013 ch. 120, 10 MRS §§ 1411- 1420, 1461-1466, 9721-9725	Routine Technical	No	03/23/15

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2015-044	65-407	Public Utilities Commission	Ch. 405	Certification of Energy Auditors in Maine	PL 2001 ch. 624, PL 2003 ch. 20, PL 2003 ch. 644, PL 2009 ch. 372, PL 2013 ch. 120, 10 MRS §§ 1411- 1420, 1461-1466, 9721-9725	Routine Technical	No	03/23/15
2015-045	65-407	Public Utilities Commission	Ch. 407	Energy Efficiency Building Performance Standards Act	PL 2001 ch. 624, PL 2003 ch. 20, PL 2003 ch. 644, PL 2009 ch. 372, PL 2013 ch. 120, 10 MRS §§ 1411- 1420, 1461-1466, 9721-9725	Routine Technical	No	03/23/15

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2015-046	65-407	Public Utilities Commission	Ch. 409	Pilot Energy Conservation Revolving Loan Fund Program	PL 2001 ch. 624, PL 2003 ch. 20, PL 2003 ch. 644, PL 2009 ch. 372, PL 2013 ch. 120, 10 MRS §§ 1411- 1420, 1461-1466, 9721-9725	Routine Technical	No	03/23/15
2015-073	65-407	Public Utilities Commission	Ch. 317	Statewide Arrearage Management Program	35-A MRS §3214, 10110	Routine Technical	No	04/19/15
2015-109	65-407	Public Utilities Commission	Ch. 895	Underground Facility Damage Prevention Requirements	23-A MRS.§3360- A, 35-A MRS §§ 104, 111; PL 2013 ch. 557; Resolves 2015 ch. 9	Major Substantive	No	07/12/15
2015-171	65-407	Public Utilities Commission	Ch. 420	Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators	35-A MRS §§ 111, 4508, 4515, 4516-A, 4705-A	Routine Technical	No	09/26/15
2015-253	65-407	Public Utilities Commission	Ch. 403	Rules for the Distribution of Funds to Support Regional Rideshare Programs	PL 2015 ch. 43	Routine Technical	No	12/18/15

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2015-173	90-351	Workers' Compensation Board	Ch. 5	Medical Fees: Reimbursement Levels; Reporting Requirements	39-A MRS §101 et seq.	Routine Technical	No	10/01/15
2015-174	90-351	Workers' Compensation Board	Ch. 12	Formal Hearings	39-A MRS §101 et seq.	Routine Technical	No	10/01/15
2015-175	90-351	Workers' Compensation Board	Ch. 17	Expenses and Fees	39-A MRS §101 et seq.	Routine Technical	No	10/01/15

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2015-183	90-590	Maine Health Data Organization	Ch. 243	Uniform Reporting System for Health Care Claims Data Sets	22 MRS §§ 8703(1), 8704(4), 8708(6-A), 8712(2)	Routine Technical	No	10/06/15
2015-226	90-590	Maine Health Data Organization	Ch. 241	Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets	22 MRS ch. 1683. §8704 sub-§4, §8708	Routine Technical	No	11/22/15

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2015-097	94-270	Commission on Governmental Ethics and Election Practices	Ch. 1	Procedures	1 MRS §1003(1); 21-A MRS §1126	Routine Technical	No	05/25/15

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2015-104	94-293	Baxter State Park Authority	Ch. 1	Baxter State Park Rules and Regulations	None provided	Routine Technical	No	06/01/15

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2015-063	94-457	Finance Authority of Maine	Ch. 314	Regional Economic Development Revolving Fund Program	10 MRS §969-A(14); 10 MRS §1026-M(11); 10 MRS §1026-A	Routine Technical	No	04/11/15
2015-165	94-457	Finance Authority of Maine	Ch. 325	Maine New Markets Capital Investment Program	10 MRS §1100-ZZ; 16 MRS §5219-GG	Routine Technical	Yes	09/01/15
2015-209	94-457	Finance Authority of Maine	Ch. 325	Maine New Markets Capital Investment Program, Amendment 3	10 MRS §1100-2; 36 MRS §5219-GG	Routine Technical	No	11/09/15

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2015-121	94-649	Maine Commission on Indigent Legal Services	Ch. 301	Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel	4 MRS §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D); P.L. 2015 ch. 267 Sec. A-41, Sec. Y-I	Major Substantive	Yes	07/01/15
2015-152	94-649	Maine Commission on Indigent Legal Services	Ch. 2	Standards for Qualifications of Assigned Counsel	4 MRS §1804(2)(B, G), 4(D); Resolve 2013 ch. 38	Major Substantive	No	09/17/15

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2015-089	99-346	Maine State Housing Authority	Ch. 24	Home Energy Assistance Program Rule	30-A MRS §§ 4722(1)(W), 4741(15), 4991 et seq.; 42 USCA §§ 8621 et seq.	Routine Technical	No	05/16/15
2015-147	99-346	Maine State Housing Authority	Ch. 24	Home Energy Assistance Program Rule	30-A MRS §§ 4722(1)(W), 4741(15), 4991 et seq.; 42 USCA §§ 8621 et seq.	Routine Technical	No	08/18/15
2015-184	99-346	Maine State Housing Authority	Ch. 19	Homeless Solutions Rule	30-A MRS §4741.1, §4741.18, §4842, et seq.	Routine Technical	No	10/07/15

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 328, 330, 331
Chapter number/title: Ch. 208, Revaluation Guidelines
Filing number: 2015-048
Effective date: 3/24/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS amends Ch. 208, *Revaluation Guidelines*. The rule explains in further detail the process of revaluation of property and offers guidance for professionals providing revaluation services. The amendment updates obsolete references and makes other housekeeping changes. Aside from technical changes, the only noteworthy change is to eliminate the requirement for a municipality to gain approval from the State Tax Assessor prior to using a new pricing schedule. The change replaces that requirement with the requirement for municipalities to provide a copy of new pricing schedules to the State Tax Assessor only on request.

Fiscal impact of rule:
Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 801, Apportionment
Filing number: 2015-056
Effective date: 4/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Ch. 801 ("Apportionment"). The rule explains apportionment for corporations, passthrough entities, sole proprietorships and other business types. The rule applies to entities that have income from business activity both within and without Maine. The rule also applies for purposes of determining the apportionable income base when calculating the credit for taxes paid to other jurisdictions on certain income.

For ease of reference, MRS restructured section .06 Sales factor to add a new section A. Formula. The opening paragraphs are reorganized into outline form to clearly separate three distinct exceptions. Due to a statutory change, language was added to exclude from the numerator of the sales factor sales of a person whose only business activity in Maine is the performance of services directly related to a declared state disaster or emergency. MRS also adopted changes which clarify that gross receipts is an amount net of returns and allowances, consistent with longstanding practice. Additional miscellaneous technical changes were also made.

Fiscal impact of rule:
Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 803, Withholding Tax Reports and Payments
Filing number: 2015-057
Effective date: 4/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Rule 803 ("Withholding Tax Reports and Payments"). The rule identifies income subject to Maine withholding and prescribes the methods for determining the amount of Maine income tax to be withheld. It also explains the related reporting requirements. In addition to miscellaneous technical changes, MRS has added definitions for "Payer", "Payee" and "Person" in order to consolidate references to employers and other persons required to register to report and remit Maine income tax withholding and to consolidate references to payees from whose income withholding is required. Another change was made to reflect separate filing, payment and processing of Maine income tax withholding and unemployment contributions for tax periods beginning after 2014 and billing notices issued after June 18, 2014. Lastly, the rule was amended due to a recent law change that allows the State Tax Assessor to establish the due date for providing Maine withholding information statements to payees; generally, under the provisions of the proposed rule, each statement is due the same date that the related federal statement is due.

Fiscal impact of rule:
Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 805, Composite Filing
Filing number: 2015-058
Effective date: 4/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

(See Basis statement.)

Basis statement:

MRS has amended Rule 805 ("Composite Filing"). The rule provides information regarding the filing of composite returns of income by partnerships, estates, trusts, and S corporations on behalf of nonresident partners, beneficiaries, or shareholders. MRS has updated a reference to the statute as a result of a recent law change and made miscellaneous technical changes.

Fiscal impact of rule:

Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §576
Chapter number/title: Ch. 202, Tree Growth Tax Law Valuations - 2015
Filing number: 2015-064
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

36 MRS §576 requires the State Tax Assessor to establish annually by rule current use valuations for classified forestlands after considering area timber stumpage sales during previous calendar years. Taxpayers with land classified under Tree Growth Tax Law and municipal assessors require guidance in appropriate valuation of forestland based on representative proportions of forest growth and products generated.

Fiscal impact of rule:

Annual establishment of valuations produces no additional cost to the State. The FY 2015-16 amount appropriated to reimburse anticipated municipal claims for "taxes lost" due to the use of Tree Growth Valuations on classified forest land is approximately \$7,700,000.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 601, Estate Tax
Filing number: 2015-077
Effective date: 4/28/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Rule 601 ("Estate Tax"). The rule explains in further detail the estate tax laws of the State of Maine for estates of decedents dying on or after January 1, 2011, but before January 1, 2013. MRS amended the rule to reflect a recent law change allowing for the automatic release of a lien when the property is passed by right of survivorship to a surviving joint tenant who was the decedent's spouse, or 10 years after the decedent's date of death. Miscellaneous technical changes were also made.

Fiscal impact of rule:
Minimal.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 603, Maine Estate Tax after 2012
Filing number: 2015-078
Effective date: 4/28/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Rule 603 ("Maine Estate Tax after 2012"). The rule explains in further detail the estate tax laws of the State of Maine for estates of decedents dying on or after January 1, 2013. In addition to miscellaneous technical changes, MRS amended the rule to reflect a recent law change allowing for the automatic release of a lien when the property is passed by right of survivorship to a surviving joint tenant who was the decedent's spouse, or 10 years after the decedent's date of death. MRS also removed reference to the termination provision contained in IRC §2210 as this provision was repealed prior to 36 MRS ch. 577 being enacted.

Fiscal impact of rule:
Minimal.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 5219-KK
Chapter number/title: Ch. 813, Property Tax Fairness Credit
Filing number: 2015-080
Effective date: 5/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has enacted Rule 813 ("Property Tax Fairness Credit"). The property tax fairness credit was enacted to replace the repealed Maine Residents Property Tax Program to provide property tax and rent relief to Maine taxpayers. The new rule provides interpretation and guidance on the Maine income tax credit that may be claimed by eligible taxpayers who owned or rented a home in Maine during the tax year and paid property taxes that are greater than 6% of their total income or rent that is greater than 40% of their total income and who lived in that home as their principal residence during the tax year. Particularly, the Rule provides guidance on taxpayer eligibility for the credit, defines a homestead that may be occupied as a primary residence, property taxes paid or rent constituting property taxes paid and total income used to determine eligibility.

Fiscal impact of rule:
Minimal.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 901, Maine Residents Property Tax Program
Filing number: 2015-081
Effective date: 5/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Rule 901 ("Maine Residents Property Tax Program"). The rule reflects the fact that the program does not apply to claim applications filed on or after August 1, 2013.

Fiscal impact of rule:
None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 5217-D
Chapter number/title: Ch. 812, Credit for Educational Opportunity
Filing number: 2015-099
Effective date: 5/27/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

MRS has amended Rule 812 ("Credit for Educational Opportunity"). The rule provides guidance for taxpayers who are qualified individuals for purposes of claiming the credit for educational opportunity. Particularly, the rule provides clarification on what type of degree qualifies as an associate's degree or bachelor's degree in science, technology, engineering or mathematics. In addition, the rule provides for the application of a proration factor when a bachelor's degree and a master's degree are earned and awarded simultaneously in order to properly determine the allowable credit with respect to the bachelor's degree.

Fiscal impact of rule:
Minimal.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 201, 208, 305
Chapter number/title: Ch. 201, Rules of Procedure Used to Develop State Valuation
Filing number: 2015-112
Effective date: 6/23/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS repeals and replaces Rule 201 ("Rules of Procedure Used to Develop State Valuation"). The rule is being replaced to update obsolete references and to enhance the readability of the rule. The State Tax Assessor must annually develop the state valuation for each municipality and for each county with property in the unorganized territory. This rule establishes the methodology used to develop state valuation and must be amended to reflect changes in state law.

Basis statement:

Repealed and replaced Rule 201 ("Rules of Procedure Used to Develop State Valuation") establishes the methodology used to develop state valuation for purposes of state revenue payments and reimbursements to municipalities.

The replaced rule updates obsolete references and enhances the readability of the rule. The State Tax Assessor must annually develop the state valuation for each municipality and for each county with property in the unorganized territory.

Fiscal impact of rule:

Minimal direct impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 102, Electronic Funds Transfer (EFT)
Filing number: 2015-123
Effective date: 7/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

MRS has amended Rule 102 ("Electronic Funds Transfer (EFT)"). The rule describes the requirements for tax and other payments by electronic funds transfer. Along with miscellaneous technical changes, MRS amended the rule by adding a definition of "combined tax liability during the lookback period". Obsolete references to mandates effective in previous years and the section relating to voluntary EFT payments were removed as these sections are no longer necessary for the administration of the rule.

Fiscal impact of rule:
Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 310-314
Chapter number/title: Ch. 205, Certification of Assessors
Filing number: 2015-154
Effective date: 8/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Rule 205 (“Certification of Assessors”) is being amended to update obsolete references and make other housekeeping changes. Certification and the continuing education of property tax assessors in the State of Maine is the responsibility of the State Tax Assessor. This rule governs the nature and content of the certification examinations as well as the enforcement of the continuing education requirements required under 36 MRS §311.

Basis statement:

Amended Rule 205 (“Certification of Assessors”) governs the nature and content of assessor certification examinations as well as the enforcement of the continuing education requirements required under 36 MRS §311.

The amended rule updates obsolete references makes other housekeeping changes. Certification and the continuing education of property tax assessors in the State of Maine is the responsibility of the State Tax Assessor.

Fiscal impact of rule:

Minimal

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations (BABLO) / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §372 sub-§2

Chapter number/title: **Ch. 50**, Lucky for Life Rules

Filing number: **2015-083**

Effective date: 5/10/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

This amendment updates the existing rules governing the draw game Lucky for Life. The amendment to the rules is necessary because of major games changes to Lucky for Life as determined by the “Lucky for Life Regional Game Agreement”, including a change to matrix to be 5 of 48 and 1 of 18; changing the odds for the Top Prize to 1:30,821,472; changing the overall odds to win a prize to 1:7.769; and adding 11 more lottery jurisdictions to change the game from a regional game to a multi-state national game. All of the lower tier prizes will be increasing with the change in the game as well. The Maine State Liquor and Lottery Commission must adopt uniform provisions and Maine specific provisions for the major components of the rules for Lucky for Life as required by the “Lucky for Life Regional Game Agreement”. The signatories of the “Lucky for Life Regional Game Agreement” are the governing body for the Lucky for Life game.

Fiscal impact of rule:

There is no known fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations (BABLO) / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §374, §372 sub-§2

Chapter number/title: **Ch. 20**, Powerball Rules

Filing number: **2015-227**

Effective date: 11/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To conform to the procedures for the operation of the multi-jurisdictional lottery game Powerball in Maine as required by the Multi State Lottery Association. These rules will allow Maine to continue to sell the Powerball game.

Basis statement:

This amendment updates the existing rules governing the draw jackpot game Powerball. This amendment changes the game matrix from 5 of 59 and 1 of 35 to 5 of 69 and 1 of 26. The odds of winning the grand prize changes from 1:175,223,510 to 1:292,201,338. The 3rd tier prize changes from \$10,000 to \$50,000. The overall odds of winning a prize in the game changes from 1 :31.8464 to 1 :24.8671. In order to sell Powerball tickets in Maine, the Maine State Liquor and Lottery Commission must adopt uniform provisions of these rules for Powerball as required by Multi State Lottery Association and its selling agreement with Maine. The Multi-State Lottery Association is the governing body for the Powerball game.

Fiscal impact of rule:

There is no known fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 32 MRS ch. 28 §§ 1861-1872
Chapter number/title: Ch. 360, The Returnable Beverage Container Law
Filing number: 2015-007
Effective date: 1/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Per legislative directive, clarification and updating of relevant sections of the Beverage Redemption rule including licensing, inspection, fees and count verification processes.

Basis statement:

During the First Regular session of the 126th Maine State Legislature, the Legislature adopted Ch. 275, LD 1080, "An Act To Improve Efficiency in the Collection of Beverage Containers", and Ch. 259, "An Act To Promote the Production of Maine Beverages".

The Department drafted updated rules in response to the directives during the fall of 2013 and conducted a public hearing on the rules on September 17, 2014. Notice of the rules and public hearing were posted on the Secretary of State website and in newspapers the week of August 27, 2014. In addition, a direct mailing to all licensed redemption centers and distributors and related stakeholders in the state was provided on August 27, 2014. Six (6) persons attended the September 17, 2014 hearing and 6 people testified. Comments were accepted through October 17, 2014.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry (*working with 01-015, Maine Milk Commission*)
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §3154
Chapter number/title: Ch. 61, Maine Milk Pool – Cost of Administration
Filing number: 2015-118
Effective date: 8/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rule-making is to amend the cost of administering the Maine Milk Pool to recover current costs.

Basis statement:

Costs incurred for the Maine Milk Pool for personnel services and for operation was approximately \$60,000 in 2014. Based on the last twelve months expenses, it is estimated that the Pool costs for similar expenses for 2015 will be about \$60,000.

The total pounds in the Pool for the last twelve months (January 2014 - December 2014) were 595,112,554. It is estimated that the total pounds in the Pool for 2015 will be approximately the same.

Based on the above projected costs and pounds the Pool Administrator sets the rate per hundredweight of milk for the cost of administering the Pool for calendar year 2015 at \$0.01/cwt.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 32 MRS ch. 28 §§ 1861-1872
Chapter number/title: Ch. 360, The Returnable Beverage Container Law
Filing number: 2015-133
Effective date: 7/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Updating the rules governing *The Returnable Beverage Container Law* to add exemption from Universal Product Code (UPC) requirements for seasonally produced malt liquor products and variety packages of malt liquor products as defined by 28-A MRS §2 sub-§18.

Basis statement:

During the First Regular session of the 126th Maine State Legislature, the Legislature adopted Ch. 275, LD 1080, *An Act To Improve Efficiency in the Collection of Beverage Containers*, and Ch 259, *An Act To Promote the Production of Maine Beverages*.

The Department drafted updated rules in response to the directives during the fall of 2013 and conducted a public hearing on the rules on September 17, 2014. Those rules were adopted and subsequently DACF was informed of a conflict between the new rule and *Uniform Product Code* (UPC) requirements. Minor changes were proposed to correct this conflict. Notice of the updated UPC rules was posted on the Secretary of State and DACF website and in newspapers the week of May 13, 2015. In addition, an e-mail notification to interested parties was provided on May 13, 2015. Comments were accepted through June 15, 2015.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 2013 Public Law Ch. 403; 10 MRS Ch. 110 §1023-N; 7 MRS ch. 103 Article 1-A
Chapter number/title: Ch. 31, Rules for Potato Marketing Improvement Fund
Filing number: 2015-203
Effective date: 11/2/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule amendment implements revisions necessitated by 2013 Public Law Ch. 403 which amended 7 MRS Ch. 103, Article 1-A. This law change transferred administration of the Potato Marketing Improvement Fund from the Maine Department of Agriculture, Conservation and Forestry to the Maine Potato Board.

Basis statement / Summary:

This chapter establishes rules governing the expenditure of funds available from the sale of state bonds and loan repayments for the purposes of improved potato marketing systems, including the modernization, construction, and operation of storage, central packing facilities, and investment in industry infrastructure.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #02-15**

Filing number: **2015-012**

Effective date: 2/1/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final February 2015 minimum Class I price is \$19.49/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.43/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.58.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$17.82/cwt. and a Class IV price of \$16.70/cwt. for December 2014.

The Class II price for December 2014 is \$19.09/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.49/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on January 22, 2015 and therefore should be passed on in minimum prices effective February 1, 2015. These prices also include a handling fee of \$1.86/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #03-15**

Filing number: **2015-019**

Effective date: 3/1/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final March 2015 minimum Class I price is \$18.81/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$2.33/cwt. handling fee for a total of \$24.22/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$16.18/cwt. and a Class IV price of \$13.23/cwt. for January 2015.

The Class II price for January 2015 is \$16.18/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$18.81/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on February 20, 2015 and therefore should be passed on in minimum prices effective March 1, 2015. These prices also include a handling fee of \$2.33/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #04-15**

Filing number: **2015-050**

Effective date: 4/29/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final April 2015 minimum Class I price is \$18.75/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$2.33/cwt. handling fee for a total of \$24.16/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.46/cwt. and a Class IV price of \$13.82/cwt. for February 2015.

The Class II price for February 2015 is \$14.88/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$18.75/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on March 19, 2015 and therefore should be passed on in minimum prices effective March 1, 2015. These prices also include a handling fee of \$2.33/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #05-15**

Filing number: **2015-079**

Effective date: 5/3/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final May 2015 minimum Class I price is \$19.08/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.02/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.54.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.56/cwt. and a Class IV price of \$13.80/cwt. for March 2015.

The Class II price for March 2015 is \$14.50/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.08/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on April 23, 2015 and therefore should be passed on in minimum prices effective May 3, 2015. These prices also include a handling fee of \$1.86/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #06-15**

Filing number: **2015-102**

Effective date: 5/31/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final June 2015 minimum Class I price is \$19.39/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.33/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.57.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.81/cwt. and a Class IV price of \$13.51/cwt. for April 2015.

The Class II price for April 2015 is \$14.98/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.39/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on May 31, 2015 and therefore should be passed on in minimum prices effective May 3, 2015. These prices also include a handling fee of \$1.86/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #07-15**

Filing number: **2015-117**

Effective date: 6/28/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final July 2015 minimum Class I price is \$19.78/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.40/cwt. handling fee for a total of \$24.26/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.56.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$16.19/cwt. and a Class IV price of \$13.91/cwt. for May 2015.

The Class II price for May 2015 is \$14.91/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.78/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on June 18, 2015 and therefore should be passed on in minimum prices effective June 28, 2015. These prices also include a handling fee of \$1.40/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #08-15**

Filing number: **2015-137**

Effective date: 8/2/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final August 2015 minimum Class I price is \$19.53/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.40/cwt. handling fee for a total of \$24.01/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.54.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$16.72/cwt. and a Class IV price of \$13.90/cwt. for June 2015.

The Class II price for June 2015 is \$14.77/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.53/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on July 23, 2015 and therefore should be passed on in minimum prices effective August 2, 2015. These prices also include a handling fee of \$1.40/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #09-15**

Filing number: **2015-157**

Effective date: 8/30/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final September 2015 minimum Class I price is \$19.59/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.40/cwt. handling fee for a total of \$24.07/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$16.33/cwt. and a Class IV price of \$13.15/cwt. for July 2015.

The Class II price for July 2015 is \$14.70/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.59/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on August 20, 2015 and therefore should be passed on in minimum prices effective August 30, 2015. These prices also include a handling fee of \$1.40/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #10-15**

Filing number: **2015-177**

Effective date: 10/4/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final September 2015 minimum Class I price is \$19.09/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.03/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$16.27/cwt. and a Class IV price of \$12.90/cwt. for August 2015.

The Class II price for August 2015 is \$14.54/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.09/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on September 24, 2015 and therefore should be passed on in minimum prices effective October 4, 2015. These prices also include a handling fee of \$1.86/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #11-15**

Filing number: **2015-200**

Effective date: 11/1/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final November 2015 minimum Class I price is \$19.73/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.40/cwt. handling fee for a total of \$24.21/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.58.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.82/cwt. and a Class IV price of \$15.08/cwt. for September 2015.

The Class II price for September 2015 is \$15.36/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.73/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on October 27, 2015 and therefore should be passed on in minimum prices effective November 1, 2015. These prices also include a handling fee of \$1.40/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #12-15**

Filing number: **2015-229**

Effective date: 11/29/2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final December 2015 minimum Class I price is \$19.96/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.40/cwt. handling fee for a total of \$24.44/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.60.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.46/cwt. and a Class IV price of \$16.43/cwt. for October 2015.

The Class II price for October 2015 is \$16.44/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.96/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on November 19, 2015 and therefore should be passed on in minimum prices effective November 29, 2015. These prices also include a handling fee of \$1.40/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 7 MRS §2954

Chapter number/title: **Ch. 29**, Dealer Margins

Filing number: **2015-254**

Effective date: 12/26/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rule-making is to up-date dealer margins. The margins adopted in this rule reflect the current cost of processing milk in Maine and will be used by the Maine Milk Commission in their monthly milk price setting meetings.

Basis statement:

I. BACKGROUND AND STATUTORY FRAMEWORK

Pursuant to 7 MRS §2954, the Maine Milk Commission is responsible for setting minimum wholesale and retail milk prices. (See Appendix A for an explanation of milk pricing by the Maine Milk Commission). Minimum wholesale prices paid to processors (dairies) are set to reflect the lowest price at which milk purchased from Maine producers can be received, processed, packaged, and distributed to retailers within the state at a just and reasonable return. 7 MRS §2954(2)(B).

To arrive at the dairy-processing price, also known as the dealer margin, the Maine Milk Commission first conducts a cost study that evaluates the operation of milk processing plants in Maine. The study uses current price data for supplies, labor, electricity, trucking, etc., to calculate a lowest achievable price. The lowest achievable price is the theoretical price at which a Maine dairy should be able to process milk from raw product to finished product and distribute it to retailers. *Cumberland Farms Northern, Inc. v. Me. Milk Cmm'n*, 377 A.2d 84,91-92 (Me. 1977). The lowest achievable price must also factor in a reasonable return on investment. *Id.* at 92. To arrive at the dealer margin, the Commission takes the lowest achievable price generated by the study and then adjusts it, as warranted, after considering the criteria set forth in 7 MRS §2954(2), including, without limitation, conditions specific to Maine processors and the need to make milk available to the public at the lowest possible prices. *Id.*; *Cumberland Farms Northern, Inc. v. Me. Milk Comm'n*, 428 A.2d 869,877-78 (Me. 1981).

The procedure employed to arrive at the dealer margin includes both independent investigation and a public hearing. 7 MRS §2954(1); *Cumberland Farms Northern, Inc.*, 377 A.2d at 88. The Commission conducts a public hearing on the proposed dealer margin. After considering the input of processors, any other interested parties, and the public, the Commission adopts a rule establishing the dealer margin. This margin is the minimum return that processors are guaranteed until a new study is completed. Processors may obtain a higher price for a gallon of milk from retailers, but the price paid by retailers cannot be below the dealer margin. A new cost study is required every three years. 7 MRS §2952-A(3). In June of 2014, the Commission contracted with Herbein & Co. of Reading, Pennsylvania to conduct a new dairy processing cost study to be used as the basis for setting new dealer margins. This is the twelfth major pricing order the Commission has set, and embodies continued improvement and refinement over earlier orders. With each new order the data, and the information made available and reviewed by the Commission, has become more detailed and specific.

The Commission received input from interveners, processors, and milk producers.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

II. THE STUDY & PUBLIC HEARING

Herbein & Co., Inc. reviewed the relevant Maine statutes, evaluated prior cost studies, and considered the milk manufacturing landscape in Maine. (The procedures performed by Herbein & Co. staff were developed by Dave Stonesifer and all the work and analysis conducted was reviewed by Mr. Stonesifer.) A review of prior cost studies revealed that the model used to determine the lowest achievable price generated numbers that exceeded dealers' actual processing costs. Thus, basing the dealer margin on the lowest theoretical price was resulting in hidden profits that accrued to the processors and higher costs to retail consumers. After consideration, the Commission determined that using actual cost data based on a substantial and representative group of processors provides a more accurate depiction of the lowest achievable prices and therefore approved Herbein & Co.'s approach to calculating lowest achievable prices.

Herbein & Co. determined that Maine's two largest processing plants should be included in the study and gathered a significant volume of financial, manufacturing and distribution data from these operations. Accordingly, the Herbein & Co. study utilizes the actual costs for the two largest processing plants in Maine, along with 15 other plants that are comparable to those doing business in the state of Maine. The costs for the 17 plants were combined using a weighted average (based on volume) to arrive at the benchmarked averages. The costs used were extracted from the 2014 calendar year. Container costs also reflected average costs for 2014.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Maine Milk Commission

Umbrella-Unit: **01-015**

Statutory authority: 5 MRS §8054, 7 MRS §2954

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #01-16**

Filing number: **2015-260**

Effective date: 1/3/2016

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final January 2016 minimum Class I price is \$19.29/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.23/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.59.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of \$15.30/cwt. and a Class IV price of \$16.89/cwt. for October 2015.

The Class II price for November 2015 is \$18.26/cwt. as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of \$19.29/cwt. plus \$1.35/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on December 24, 2015 and therefore should be passed on in minimum prices effective January 1, 2016. These prices also include a handling fee of \$1.86/cwt.

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of \$.20/cwt. as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Maine State Harness Racing Commission**
Umbrella-Unit: **01-017**
Statutory authority: 8 MRS §§ 263-A, 268, 279-A, B
Chapter number/title: **Ch. 17**, Rule Violations; Penalties
Filing number: **2015-090**
Effective date: 5/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment to Ch. 17 will change the penalties imposed for violating the Commission rules. Further, the changes will replace level of penalties to categories. These changes will mirror what the Association of Racing Commission International (ARC I) recommends to all jurisdictions. Further, there are minor corrections to spelling and grammar throughout the chapter.

Basis statement:

The changes to this chapter were made to correct grammar and to bring the penalties for prohibited substance violations in line with standards developed by the Association of Racing Commissioners International. The Commission determined that these corrections and changes to the penalties for Prohibited Substance violations were in keeping with other industry jurisdictions.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Maine State Harness Racing Commission**
Umbrella-Unit: **01-017**
Statutory authority: 8 MRS §§ 263-A; 268; 279-A, 279-B, 281
Chapter number/title: **Ch. 9**, Sire Stakes: Section 5, Purse Structure, Sub-section 2
Filing number: **2015-259**
Effective date: 12/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment updates Ch. 9 to account for the additional revenue stream arising from the new casino in Oxford and allow a portion of the revenues designated to the Sire Stakes Fund to be used to promote the Sire Stakes Program.

Basis statement:

The Commission proposed a relatively minor amendment to Section 5 of Ch. 9 in order to update the rule to reflect the additional revenue generated through the Oxford Casino. The amendment allows for a portion of the casino revenue dedicated to the sire stakes to be used for promotional purposes, similar to the other revenue dedicated to the sire stakes.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control

Umbrella-Unit: **01-026**

Statutory authority: 7 MRS §610(2), 22 MRS §1471-M

Chapter number/title: **Ch. 22**, Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition

Filing number: **2015-075**

Effective date: 5/24/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

Improve the effectiveness of the rule by eliminating the requirement for identifying sensitive areas for biting fly and tick applications, and linear rights-of-way applications if the applicator implements a drift management plan and advance public notice is published in a newspaper of general circulation in the affected area. Given that all areas are “sensitive areas” by definition in a residential area, mapping them has little value, and signage would be of greater public benefit.

Basis statement:

The requirement to identify and map sensitive areas (which include areas likely to be occupied) serves little purpose in a residential area. Consequently the Board exempted common residential ornamental, turf, and outdoor structural general pest control applications when the rule was originally promulgated in 1987. Instead, the Board required applicators to post treated areas under Ch. 28. In recent years, the Board observed that there are now a couple of other types of common residential pesticide applications: biting fly and tick applications and certain types of application made under the industrial/commercial/municipal vegetation management category. Consequently, the Board proposed exempting these applications from the requirement to identify sensitive areas under Ch. 22 in exchange for a posting or notification requirement in Ch. 28. Applicators treating vegetation on trails and sidewalks would need to also implement a drift management plan

In addition, the Board saw little value in identifying sensitive areas for common right-of way (category 6A) spraying and proposed exempting this category from the requirement to identify sensitive areas in exchange for implementing a drift management plan and publishing notice of the application in the newspaper under Ch. 28.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-M(2)(D)

Chapter number/title: **Ch. 28**, Notification Provisions for Outdoor Pesticide Applications

Filing number: **2015-076**

Effective date: 5/24/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

Add to the list of categories that require posting: 1) applications for biting fly and other arthropod vectors and 2) applications for industrial/commercial/municipal vegetation management, except when making applications to sidewalks and trails, provided that an advance public notice of the proposed treatment is published. This aligns with the proposed amendments to Ch. 22, eliminating the requirement for mapping sensitive areas, in lieu of posting, which is of greater public benefit in these instances.

Basis statement:

Ch. 28 requires applicators to post certain types of treatments commonly made in residential areas instead of identifying sensitive areas under Ch. 22. In recent years, the Board observed that there are now a couple of other types of common residential applications: ticks and mosquitoes (licensing category 7E) and certain types of vegetation management applications made under licensing category 6B (except trails and sidewalks). Consequently, the Board proposed adding these types of applications to the list of licensing categories that require posting.

Applications for rights-of-way vegetation management are routinely given variances from the Ch. 22 requirement to map sensitive areas provided the applicator publishes notice in a newspaper and implements a drift management plan. The Board felt it made sense to put these requirements in rule, thus eliminating the necessity of applying for a variance every year. Consequently, the Board proposed adding to Ch. 28 the requirement for a newspaper notice for right-of-way spraying, including trails and sidewalks.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-D

Chapter number/title: **Ch. 31**, Certification and Licensing Provisions / Commercial Applicators

Filing number: **2015-168**

Effective date: 9/23/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Four amendments are proposed:

1. Change the license period from two years to three; change the certification period from six years to three and align the licensing and certification periods.
2. Amend the description of Category 6B to clarify what types of applications are included.
3. Change the requirement for passing both the core and category exams within one year of each other to within five years.
4. Clarify that certified or licensed wastewater or drinking water operators are exempt from licensing only while applying pesticides to the wastewater or drinking water and not while performing other duties such as weed management.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-D

Chapter number/title: **Ch. 34**, Certification and Licensing Provisions / Pesticide Dealers

Filing number: **2015-169**

Effective date: 9/23/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Two amendments to Ch. 34 were proposed by the Board:

1. Shorten the time period a person must wait before re-taking an exam they have failed. This change would align Ch. 34 with other Board licensing rules.
2. Change the license period from one year to three; change the certification period from five years to three and align the licensing and certification periods to be consistent with other Board licenses.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-D

Chapter number/title: **Ch. 35**, Certification and Licensing Provisions / Spray Contracting Firms

Filing number: **2015-170**

Effective date: 9/23/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Two amendments to Ch. 35 were proposed by the Board:

1. Remove the requirements for spotters and monitors for forest insect aerial spray programs.
2. Change the license period from two years to three.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Bureau of Forestry (Maine Forest Service)**

Umbrella-Unit: **01-669**

Statutory authority: Sec.1 38 MRS §480-E-3 as enacted by PL 2011 ch. 599 and amended by PL 2014 ch. 570

Chapter number/title: **Ch. 31**, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas

Filing number: **2015-139**

Effective date: 8/30/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

The Maine Department of Environmental Protection has delegated permitting authority under the *Natural Resource Protection Act* to the Maine Forest Service. Water crossing standards are currently different in Maine Forest Service Ch. 21 rules and Maine Department of Environmental Protection Ch. 305 rules. This rule-making amends water crossings standards in MFS Ch. 21 to be consistent with DEP Ch. 305.

Basis statement:

The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Forestry, aka the Maine Forest Service (MFS), "to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources." It also delegates permit granting authority under the *Natural Resources Protection Act* (NRPA) from the Department of Environmental Protection (DEP) to MFS. The 2013 amendments clarified that MFS's authority to grant permits extended statewide.

Fiscal impact of rule:

None. MFS will reassign priorities as need to accomplish with existing resources.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Bureau of Parks and Lands – Off-Road Recreational Vehicle Office**

Umbrella-Unit: **01-670**

Statutory authority: 12 MRS ch. 22 §1893-3

Chapter number/title: **Ch. 9**, Rules for Snowmobile Capital Equipment Grant-In-Aid Program

Filing number: **2015-155**

Effective date: 8/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule changes is to correct inconsistent/conflicting language, correct grammatical errors, and incorporate language to implement a grant scoring system.

Basis statement:

Title 12 MRS ch. 220 §1893-3 authorizes the Bureau's Off Road Recreational Vehicle Office to make grants-in-aid to political subdivisions. The purpose of the changes to the Capital Equipment Grant-In-Aid rule are to correct conflicting/inconsistent language, correct grammatical errors and to establish a grant scoring system, in an effort to distribute the grant money to the snowmobile clubs that are most in need. The Snowmobile Advisory Council voted unanimously to submit rule changes to implement a scoring system in order to prioritize grant applications.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
**Bureau of Parks and Lands – Off-Road Recreational
Vehicle Office**

Umbrella-Unit: **01-670**

Statutory authority: 12 MRS ch. 22 §1893-3

Chapter number/title: **Ch. 10**, Rules for Snowmobile Disaster Relief
Grant-In-Aid Program

Filing number: **2015-156**

Effective date: 8/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To identify the process and define the terms and conditions for making disaster relief grants-in-aid to snowmobile clubs and political subdivisions for the remediation of catastrophic events that significantly impact funded trail connectivity.

Basis statement:

Title 12 MRS ch. 220 §1893-3 authorizes the Bureau's Off Road Recreational Vehicle Office to make grants-in-aid to political subdivisions. The purpose of this rule is to establish the Bureau's Disaster Relief Grants-in-Aid Program, identify the process for qualified snowmobile clubs or political subdivisions to use to apply for Disaster Relief Grants, and to define the terms and conditions of the Grants.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Land Use Planning Commission**
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A), 680
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning Petition **ZP 751** (T9 R7 WELS – Aroostook County)
Filing number: **2015-082**
Effective date: 5/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This filing is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published. A current copy of the map has been placed on file as required.

Basis statement:

Pursuant to 12 MRS §§ 685-A (7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

ZONING PETITION

ZP 751

**PETITIONER OR
COPETITIONER**

ME Inland Fisheries
and Wildlife

LOCATION

T9 R7 WELS - Aroostook County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A), 689
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning
Petition **ZP 749**: (Hibberts Gore, Monhegan Island Plt., Muscongus
Bay Coastal Islands – Lincoln County; Perkins Twp., Swan Island –
Sagadahoc County)
Filing number: **2015-095**
Effective date: 5/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published. A current copy of the map has been placed on file as required.

Basis statement:

Pursuant to 12 MRS §§ 685-A (7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

ZONING PETITION

ZP 749

**PETITIONER OR
COPETITIONER**

Maine Land Use
Planning Commission

LOCATION

Hibberts Gore, Monhegan Island
Plt., Muscongus Bay Coastal
Islands – Lincoln County;
Perkins Twp., Swan Island –
Sagadahoc County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards: Designation of Areas of Cultural or Special Significance

Filing number: **2015-100**

Effective date: 5/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission adopts amendments to Ch. 10, *Land Use Districts and Standards*, that would allow the Commission to designate areas of cultural, historical, or other special significance. Within a designated area, applicants would be able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. In designating a proposed area, the Commission would consider the unique cultural or historic characteristics of the proposed area that may benefit the public by preserving the look and feel of the community, attracting visitors and new residents, and enhancing the quality of life for residents. Once an area is designated by the Commission, its purpose, specific geographic location, and other relevant information would be recorded in an Appendix to Ch. 10, *Land Use Districts and Standards*, and property owners within the designated area would then be able to apply for a permit to reconstruct in place or replace structures, so long as the proposed reconstruction project conforms with the purpose of the designation.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes to its Ch. 10, *Land Use Districts and Standards*, that allow the Commission to designate areas of cultural, historical, or other special significance. Within a designated area, applicants will be able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. In designating a proposed area, the Commission will consider the unique cultural or historic characteristics of the proposed area that may benefit the public by preserving the look and feel of the community, attracting visitors and new residents, and enhancing the quality of life for residents. Once an area is designated by the Commission, its purpose, specific geographic location, and other relevant information will be recorded in an Appendix G to Ch. 10, *Land Use Districts and Standards*, and property owners within the designated area will be able to apply for a permit to reconstruct or replace structures in place, so long as the proposed reconstruction project conforms with the purpose of the designation.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards: Recreational Lodging and Revegetation Standards

Filing number: **2015-101**

Effective date: 5/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission adopts amendments to Ch. 10, *Land Use Districts and Standards*, regarding: i) recreational lodging, ii) revegetation standards, and iii) administrative corrections and clarifications. Specifically, the Commission expands clearing limits for recreational lodging facilities; adds procedures for exceeding those limits; establishes dimensional requirements for campsites and residential campsites; and corrects and simplifies the definition of Residential Campsite. The rule clarifies, in cases where recreational lodging facilities are converted to another use, which dimensional requirements apply in general and those that must be met in the aggregate. This rule replaces existing general revegetation provisions with standards that are consistent with those administered by the Maine Department of Environmental Protection. It also addresses several administrative corrections and clarifications, such as unifying terms used and the format of citations.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in Ch. 10, *Land Use Districts and Standards*, regarding: i) recreational lodging, ii) revegetation standards, and iii) administrative corrections and clarifications. Specifically, the rule changes expand clearing limits for recreational lodging facilities; add procedures for exceeding those limits; establish dimensional requirements for campsites and residential campsites; and correct and simplify the definition of Residential Campsite. The amended rule clarifies, in cases where recreational lodging facilities are converted to another use, which dimensional requirements apply in general and those that must be met in the aggregate. This rule replaces existing general revegetation provisions with standards that are consistent with those administered by the Maine Department of Environmental Protection, as well as addresses several administrative corrections and clarifications, such as unifying terms used and the format of citations.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A), 689
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning
Petition **ZP 750** (Shawtown Twp. and T1 R12 WELS – Piscataquis
County)
Filing number: **2015-119**
Effective date: 7/2/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published. A current copy of the map has been placed on file as required.

Basis statement:

Pursuant to 12 MRS §§ 685-A (7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

ZONING PETITION

ZP 750

**PETITIONER OR
COPETITIONER**

AMC Maine Woods Inc.

LOCATION

Shawtown Twp. and
T1 R12 WELS –
Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 684, 685-A(3), 685-C(5)(A); 38 MRS §480-E-1

Chapter number/title: **Ch. 10**, Land Use Districts and Standards (*Natural Resource Protection Act* and Recreational Gold Prospecting)

Filing number: **2015-129**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The primary objective of this rule-making is to review and update the agency's standards regarding certain protected natural resources to be consistent with the goals of the *Natural Resources Protection Act* (NRPA). The NRPA consistency rule-making focuses on the permit requirements for activities in and around wetlands and water bodies. In addition, changes to Ch. 10 conform with recent legislative changes relating to improved consistency in the regulation of motorized recreational gold prospecting.

Basis statement:

The Maine Land Use Planning Commission's primary objective for this rule-making effort is to review and update its *Land Use Districts and Standards* (Ch. 10) regarding certain protected natural resources to be consistent with the goals of the *Natural Resources Protection Act* (NRPA, 38 MRS §§ 480-A - 480-HH). This NRPA consistency rule-making focuses on the permit requirements for activities in and around wetlands and water bodies. In addition, changes are included for Section 10.27,G, "Motorized Recreational Gold Prospecting", to conform with Public Law 2013 ch. 260 and Public Law 2013 ch. 536 (enacting LD 1135, "An Act to Provide Consistency in the Regulation of Motorized Recreational Gold Prospecting" and LD 1671, "An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats", respectively). Key changes to the rules include:

- **Coastal wetlands/tidal waters.** The Commission recommended using a single term "coastal wetland" for all tidal waters, tidal lands and subtidal lands. Removing a distinction between these terms results in a change in the application of standards, particularly those relating to vegetative clearing and building heights. Under the proposal, vegetative buffer strips may increase, vegetation clearing standards will apply, and building heights will be limited adjacent to coastal wetlands. Also, the P-SL1 zoning will apply adjacent to all coastal wetland areas. This will not affect mapping, as all coastal shorelines were mapped P-SL1. The use of a single term for coastal resources is intended to improve consistency with the way the Department of Environmental Protection (DEP) regulates coastal resources, and to provide the same level of protection for coastal wetlands with salt tolerant vegetation as those without salt tolerant vegetation.

In addition, the Commission recommended changing the definition of coastal wetland and the normal high water line of coastal wetland areas to reference the "highest astronomical tide (NOAA HAT)" instead of the "maximum spring high tide level" or the "mean high water level." Important considerations in choosing a relevant elevation for establishing the boundary of a coastal wetland included whether the referenced level is included as a NOAA tidal datum with a published elevation, and the frequency that the elevation will change. "Maximum spring tide" is not defined

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

by NOAA or included as a NOAA tidal datum, and the elevation changes on an annual basis. The predicted "highest astronomical tide" is published by NOAA and changes on a 19-year basis. Annual changes to data and maps depends on a substantial allocation of staff time. Also, setback distances that change on a year-to-year basis can be problematic in terms of the standards that apply to structures that do not conform with setback distances. According to the Maine Geological Survey, the vertical difference, in general, between the "maximum spring tide" and the "highest astronomical tide" is a matter of inches.

- **Flowing water.** The rule revisions change the definition of flowing water to the language used by NRPA to define a river, stream, or brook. With the revision, the term "stream channel" is no longer necessary, so virtually all references to stream channel were changed to flowing water. Some upper headwater channels in the LUPC service area will no longer be considered as regulated flowing waters with this revised definition. The intent is to improve consistency and simplify the application process for joint DEP/LUPC review projects.
- **Critically imperiled (S1) or imperiled natural communities (S2).** S1 and S2 resources have been added to P-WL1 wetlands of special significance, consistent with NRP A. Currently, S I and S2 communities are reviewed under the standards in Section 10.25,E, "Scenic Character, Natural and Historic Features". Adding these resources to the list of P-WL1 wetlands will ensure activities that require permits in S1 or S2 communities have to meet the same level of review, avoidance standard, and compensation requirements as required by NRPA.
- 10.25.P - **Protected Natural Resources.** To allow for potential future rule-making on significant wildlife habitat and sand dunes, the Wetland Alterations rule is being replaced with a Protected Natural Resources rule, and this rule has been reorganized with placeholders for wildlife habitat and sand dune sections. No substantive changes for wildlife habitat and sand dunes are proposed in the present rule-making.

In addition, the Commission's Wetland Compensation Guidelines have been incorporated into this rule, consistent with the level of authority provided for compensation in NRP A. Also to improve consistency with NRPA, the amount of freshwater wetlands not of special significance that triggers the need for a functional assessment and compensation has been reduced from 20,000 square feet to 15,000 square feet, language has been added to clarify what is meant by "no unreasonable impact" as it relates to wetlands of special significance, and language has been added to clarify certain terms and conditions that may be established for wetland compensation projects.

- 10.27.F - **Filling and Grading.** The revision includes changes to the standards for filling and grading activities. The prior standard required that filling and grading activities adjacent to wetlands and water bodies be set back certain distances based on the slope of the land. These setback distances conflicted, in some instances, with the distance used for vegetative buffer strips in Vegetation Clearing (Section 10.27,B). To address this conflict, the table of setbacks has been deleted, a new, consistent standard for setbacks has been added, and a requirement limiting filling and grading activities, allowed subject to standards and located within 250 feet of certain wetlands and water bodies, to slopes of 20% or less has been added.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards (Exceptions to Dimensional Requirements for Public Recreational Facilities)

Filing number: **2015-130**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in the Ch. 10, *Land Use Districts and Standards*, that provide an exception to dimensional lot standards for certain public recreational facilities. The exceptions would apply to boat launches and trailheads that are owned, leased, or operated by a public entity. Eligible public facilities would be those that are within or surrounded by land protected by a conservation easement or other legally binding provisions that prohibit incompatible land uses in locations that would be affected by the reductions. The exceptions would be a minimum lot size of 20,000 square feet, minimum shoreline frontage of 100 feet, and minimum road frontage of 100 feet. The exceptions would be allowed only if the facility is otherwise sufficiently sized to fulfill the use for which it is designed.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards (Treatment of Non-Conforming Lots)

Filing number: **2015-131**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in the Ch. 10, *Land Use Districts and Standards*, to remove the term "waiver" in Section 10.11, E.3 and 4, and clarify the dimensional requirements that apply to nonconforming lots. This change is not intended to alter the type or location of development that may occur on non-conforming lots.

The Maine Land Use Planning Commission also adopts rule changes in the Ch.10, *Land Use Districts and Standards*, to amend Section 10.11, E.3 to allow permanent structures for the storage of personal property on lots in excess of 15,000 square feet with a minimum of 100 feet of shore frontage and 75 feet of road frontage, provided such structures do not rest on a permanent foundation, and do not exceed 160 square feet in area or 16 feet in height. This change is a response to demand for personal property storage that is not part of a residential campsite or accessory to a residential dwelling on certain pre-Commission lots that are too small to be developed as a residential campsite or with a residential dwelling. The dimensional standards associated with this change are intended to ensure that there are no undue impacts on neighboring properties or waterbodies.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A), 689
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning
Petition **ZP 755** (Garfield Plt. – Aroostook County)
Filing number: **2015-151**
Effective date: 8/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published. A current copy of the map has been placed on file as required.

Basis statement:

Pursuant to 12 MRS §§ 685-A(7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

ZONING PETITION

ZP 750

**PETITIONER OR
COPETITIONER**

Katahdin Forest

LOCATION

Garfield Plt. –
Aroostook County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-A(7)(A), 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards (Designation of Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance)

Filing number: **2015-153**

Effective date: 8/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission adopts amendments to Ch. 10, *Land Use Districts and Standards*, that would designate the Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance (DACSS). Within a DACSS, applicants are able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. The proposed DACSS includes the boathouses and public boat launches located in Hatchery Cove near the outlet to West Grand Lake. Three of the boathouses in this area were destroyed by fire on May 14, 2014. The boathouses and waterfront area are an iconic location in the village that has been a familiar visual backdrop for residents and visitors for the last 100 years. The area provides public benefits for residents and visitors by 1) adding to the quality of life; and 2) stimulating economic activity by drawing tourists.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in its Ch. 10, *Land Use Districts and Standards*, to include designation of the Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance (DACSS).

CRITERIA FOR DESIGNATION OF AREA OF CULTURAL OR SPECIAL SIGNIFICANCE

1. The proposed area includes an iconic location containing features that convey a sense of time or place to residents or visitors, as required by Ch. 10, Appendix G, Section 1,a,(1).
2. The proposed area is a geographically definable area or neighborhood composed of a finite group of related features that have a special character, historical interest, or aesthetic value, as required by Ch. 10, Appendix G, Section 1,a,(2).
3. The proposed area provides significant public benefits as required by Ch. 10, Appendix G, Section 1,a,(3).

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), 685-C(5)(A)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards, for Subdivision
Technical Issues

Filing number: **2015-237**

Effective date: 12/7/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The primary objective of this rule-making is to revise the Commission's rules regarding certain technical standards that apply to subdivision development in response to specific issues identified by stakeholders in a recent facilitated rule review process. The Subdivision Technical Issues rule-making focuses on the requirements for soil suitability, maximum road grade, steep slopes and phosphorus control. In addition, changes are proposed to Chapter 10 to conform with legislative changes removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area.

Basis statement:

The primary objective of this rule-making is to revise the Commission's rules regarding certain technical standards that apply to subdivision development in response to specific issues identified by stakeholders in a recent facilitated rule review process. The Subdivision Technical Issues rule-making focuses on the requirements for soil suitability, maximum road grade, steep slopes and phosphorus control. These amendments improve consistency between LUPC rules and other state requirements and guidelines, and, in the Commission's professional judgment, provide the regulated community with more flexibility in satisfying Commission standards while ensuring the Commission receives sufficient information to process subdivision applications. In addition, the changes to Ch. 10 conform with legislative changes removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area. Public Law 2011, c. 682, §13 revised 12 MRS §685-A(8-A) by removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area. The Commission, in this rule-making, is updating its rules to conform to the statute. Concurrent with the update of its rules, the Commission also withdraws the official guidance document titled "Clarifying the Rezoning Criterion of 'Demonstrating Need'", effective April 1, 2004.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Land Use Planning Commission
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A), 689
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning
Petition **ZP 756** (Bancroft Twp. – Aroostook County) Zoning Petition
7P 758 (Big Moose Twp. – Piscataquis County)
Filing number: **2015-250**
Effective date: 12/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published. A current copy of the map has been placed on file as required.

Basis statement:

Pursuant to 12 MRS §§ 685-A(7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

ZONING PETITION	PETITIONER OR COPETITIONER	LOCATION
ZP 756	ME Land Use Planning Commission	Bancroft Twp. – Aroostook County
ZP 758	C & E Real Estate, LLC	Big Moose Twp. – Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Baxter State Park Authority
Umbrella-Unit: 94-293
Statutory authority: None provided
Chapter number/title: Ch. 1, Baxter State Park Rules and Regulations
Filing number: 2015-104
Effective date: 6/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Ch. 1 Rule 5.5: To provide increased recreational opportunities for park visitors without increasing impacts on the natural resources.

Ch. 1 Rule 5.6: To protect against negative impacts to the natural resources and negative impacts to visitor experiences.

Basis statement:

Current Rule 5.5

The operation of Motorized trail bikes and ATV's (All-terrain vehicles) is prohibited within the Park. The operation of Motorcycles is prohibited on unpaved roads within the Park. Bicycles are allowed only on maintained roads within the Park with the exception of roads in the Scientific Forest Management Area (SFMA) where bicycles are prohibited.

Proposed Rule 5.5

The operation of Motorized trail bikes and ATV's (All-terrain vehicles) is prohibited within the Park. The operation of Motorcycles is prohibited on unpaved roads within the Park. ~~Bicycles are allowed only on maintained roads within the Park with the exception of roads in the Scientific Forest Management Area (SFMA) where bicycles are prohibited.~~ Unless further restricted for safety reasons, bicycle use within the Park shall be restricted to maintained roads and the Dwelley Pond Trail.

Adopted Rule 5.5

The operation of Motorized trail bikes and ATV's (All-terrain vehicles) is prohibited within the Park. The operation of Motorcycles is prohibited on unpaved roads within the Park. Unless further restricted for safety reasons, bicycle use within the Park shall be restricted to maintained roads and the Dwelley Pond Trail.

Rationale:

Rule 5.5 - This change is necessary to increase recreational opportunities for Baxter State Park visitors without increasing impacts on natural resources.

Current Rule 5.6

Take off and landing of aircraft in the Park is prohibited except on Matagamon, Nesowadenhunk, and Webster Lakes. Persons landing aircraft on permitted waters in the Park must register with Park Headquarters or a gatehouse in advance. "Aircraft" is defined to include any machine or device capable of deriving support in the atmosphere from the reactions of the air, including, but not limited to model craft, hot air balloons, hang gliders, para-sails and para-gliders.

Proposed Rule 5.6

Take off and landing of aircraft in the Park is prohibited except on Matagamon, Nesowadenhunk, and Webster Lakes. Persons landing aircraft on permitted waters in the Park must register with Park Headquarters or a gatehouse in advance. "Aircraft" is defined to include any machine or device capable of deriving support in the atmosphere from the

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

reactions of the air, including, but not limited to model craft, hot air balloons, hang gliders, para-sails and para-gliders-, and unmanned aerial vehicles (UAV's).

Adopted Rule 5.6

Take off and landing of aircraft in the Park is prohibited except on Matagamon, Nesowadenhunk, and Webster Lakes. Persons landing aircraft on permitted waters in the Park must register with Park Headquarters or a gatehouse in advance. "Aircraft" is defined to include any machine or device capable of deriving support in the atmosphere from the reactions of the air, including, but not limited to model craft, hot air balloons, hang gliders, para-sails, para-gliders, and unmanned aerial vehicles (UAV's).

Rationale:

Rule 5.6 - This change is necessary in order to adequately protect the natural resources and visitor experience in Baxter State Park.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Commission on Governmental Ethics and Election Practices
Umbrella-Unit: 94-270
Statutory authority: 1 MRS §1003(1); 21-A MRS §1126
Chapter number/title: Ch. 1, Procedures
Filing number: 2015-097
Effective date: 5/25/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement/Summary)

Basis statement / summary:

Ch. 1 Section 4(2)(A) - Compliance Reviews of Campaign Finance Reports

In Section 4(2)(A), the Commission's Rules set out how the Commission staff reviews campaign finance reports filed by candidates and political committees (i.e., political action committees, ballot question committees and political party committees) for compliance with legal requirements and the Commission's procedures. The Commission proposes some changes to the rule in order to reflect current practices.

Ch. 1 Section 5(3)(A) - Compliance Reviews of Lobbyist Reports

The Commission receives registrations and monthly reports from lobbyists. The Commission proposes similar changes to its rules concerning its compliance reviews of lobbyist reports.

Ch. 1 Section 6(3) - Disclosure of Employers and Occupations of Contributors

Candidates and political committees are required by statute to disclose the employers and occupations of contributors who have given more than certain threshold amounts. For example, for candidates and political action committees, the information is required for donors who have given more than \$50. (21-A MRS §§ 1017(5) & 1060(6)) The Commission has adopted a rule requiring candidates and committees to use "reasonable efforts" to obtain the information. The rule reflects the reality that some donors would rather not disclose their employment information for public reporting purposes.

The Commission proposes defining "reasonable efforts" to mean that the candidate or committee must make an actual request to the donor for the employment information and must provide convenient means for the donor to provide the information, such as a paper form to be submitted with the contribution, or text fields to enter the information into a fundraising screen on the internet.

Ch. 1 Section 6(4) - Vehicle Travel for Campaigning Provided by Public Entity

The term "contribution" is defined in Maine campaign finance law as a "gift ... of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office" (21-A MRS §1012(2)(A)(1)) (emphasis added) Thus, a good or service that is donated to a campaign generally constitutes a contribution, unless it falls within an exemption established by the Legislature. The Commission's Rules define an in-kind contribution to mean "the provision of goods or services without charge or at a charge that is less than the usual and customary charge." (Ch. 1, Section 6(4))

Based on the statutory definition, the Commission staff has advised that travel expenses donated to a campaign to promote a candidate's election generally constitute a contribution. This view is supported by exceptions in the Election Law for certain travel expenses paid by a volunteer or candidate. (21-A MRS §§ 1012(2)(B)(4) & (4-A))

Federal election regulations covering candidates for congressional office state that travel expenses paid from a source other than the candidate's political committee must be reported by

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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the candidate. Federal Election Commission 11 CFR 160.3(b)(I) Paragraph b(2) of the rule states that "Where a candidate's trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin."

In the fall of 2014, the Commission received a request to consider whether vehicle transportation provided to an official by the Maine state government, which was used occasionally for campaign purposes, was a contribution. The request brought attention to a lack of policy or rule addressing this question directly.

If the use of a vehicle is deemed a contribution, the candidate receiving it must report it as an in-kind contribution, which is subject to the applicable \$375, \$750 or \$1,500 contribution limit. Candidates may reimburse the donor for the use of the vehicle to avoid the receipt of a contribution.

Ch. 1 Section 7(1) - How to Report Purchases made by Vendors on behalf of a Candidate or Political Committee

In political campaigns (particularly ballot question elections and more expensive candidate races), sometimes a candidate or political committee makes a payment to a vendor (such as a campaign consultant or communications consultant) and the vendor uses those funds to purchase goods or services from a subvendor on behalf of the candidate or committee. Under current Ch. 1 Section 7(1) of the Commission Rules, the candidate or committee is required to itemize each purchase made by the vendor from the subvendor. This rule is intended to avoid situations in which the public knows only that large amounts are paid to a vendor with no information concerning how the funds are ultimately used.

This reporting of purchases by a vendor is specifically required by 21-A MRS §1060(4), which sets out the content of what must be included in campaign finance reports. This subsection is within the subchapter of law governing PACs, but the language in the subsection suggests that it was intended to cover candidates, party committees, and committees spending money for or against ballot questions:

4. Itemized expenditures. An itemization of each expenditure made to initiate or influence any campaign, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee supported or opposed; and each referendum or initiated petition supported or opposed by the expenditure. *If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure.* The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;

21-A MRS §1060(4) (*italics added*). The italicized language was proposed in L.D. 1339 in 2003 (P.L. 2003, c. 615). The summary section of the bill also suggests that the reporting of purchases made by vendors was to be made by candidates, party committees, and ballot question committees - not just PACs.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

The Commission has considered the public purposes of Section 7(1) and proposes that candidates and committees should be permitted to report purchases of media time and productions costs in the aggregate. Under the proposed rule, it would not be necessary for a candidate, PAC, or other committee to itemize specific amounts paid by the media buyer to specific TV or radio stations. The candidate, PAC or other committee could report these amounts as a lump sum paid to the media buyer.

Chapter 1 Section 7(5) - Reimbursements by *Maine Clean Election Act* Candidates

Sometimes a candidate or individual authorized by a candidate will purchase a good or service with personal funds or with a personal credit card, and subsequently receive a reimbursement from the candidate's campaign. This subsection sets out procedures for how candidates should report those financial activities.

Earlier in the administration of the *Maine Clean Election Act* (MCEA), the Commission adopted a rule requiring the campaigns of MCEA candidates to make the reimbursements by the end of the report period in which the original purchase was made. This was to encourage the reporting of the transactions as expenditures, rather than as in-kind contributions or debts.

After administering this provision through a number of election cycles, it no longer seems necessary to restrict the timing of when the reimbursements are made. Candidates may report purchases that have not been reimbursed by the end of a report period as debts.

Ch. 1 Section 10(3) - Time of Day for Reporting of Independent Expenditures

After the Legislature made the electronic filing of campaign finance reports mandatory for candidates and committees, it changed the deadline for filing regularly scheduled reports from 5:00 p.m. to 11:59 p.m. on the day that the reports are due.

The Commission's rules have retained a 5:00 p.m. deadline for independent expenditure reports, which are single reports of paid communications advocating for or against candidates. The 5:00 p.m. deadline for independent expenditures has caused some confusion for PACs and party committees, which are accustomed to the 11:59 p.m. deadline for their regular campaign finance reports. To eliminate the confusion and promote consistency, the Commission is amending the time from 5:00 p.m. to 11:59 p.m.

Fiscal impact of rule:

The Commission anticipates that the rule amendments will not have a fiscal impact on municipalities and counties, and will not impose an economic burden on small businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: **Maine Commission on Indigent Legal Services**
Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(2)(F), (3)(B), (3)(F), (4)(D); P.L. 2015 ch. 267 Sec. A-41, Sec. Y-1
Chapter number/title: **Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel
Filing number: **2015-121**
Effective date: 7/1/2015
Type of rule: Major Substantive
Emergency rule: Yes

Principal reason or purpose for rule:

Pursuant to 5 MRS §1804(3)(F) the Commission is required to establish the rate of compensation for assigned counsel. Currently, assigned counsel are paid \$55.00 per hour. This emergency amendment raises the hourly rate paid to attorneys as directed by the Legislature to bring the hourly rate into alignment with the amount of funds appropriated by the Legislature for that purpose.

Basis statement:

The current MCILS fee schedule sets the hourly rate paid to attorneys providing indigent legal services at \$55.00/hr. In Sec. A-41 of the biennial budget passed by the Legislature for fiscal years 2015-2016 and 2016-2017, the Legislature appropriated sufficient funds to pay lawyers \$60.00/hr. for the 2015-2016 fiscal year and for the 2016-2017 fiscal year. The Legislature also directed the Commission, in Sec. Y-1 of that budget, to adopt an emergency rule setting the hourly rate in accordance with the amounts appropriated. In its directive, the Legislature also exempted this emergency rule-making from the requirements of Title 5, section 8054, subsections 1 and 2. Accordingly, the Commission is exempted from the requirement of making findings with respect to this emergency rulemaking and none are set forth herein.

Fiscal impact of rule:

As compared to the existing rule, the rate increase contained in this emergency rule-making will increase the cost of providing indigent legal services by \$1,470,790 in fiscal year 2015-2016 and by \$1,592,773 in fiscal year 2016-2017.

Nearly all of the attorneys who provide indigent legal services operate small businesses that employ people and spend money in their local economy. The hourly rate paid to attorneys supports these small businesses and economic activity in their localities, and the increase in the hourly rate will enhance the economic impact of these businesses on the local and state economies.

Attorneys providing indigent legal services will be affected by the increase in the hourly rate of compensation. People receiving indigent legal services will be affected to the extent that the increased rate of pay provides additional resources to attorneys providing representation and helps retain and attract experienced and skilled attorneys able to provide quality representation.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: **Maine Commission on Indigent Legal Services**
Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(2)(B), (2)(G), (4)(D); Resolve 2015 ch. 38
Chapter number/title: **Ch. 2**, Standards for Qualifications of Assigned Counsel
Filing number: **2015-152**
Effective date: 9/17/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

Pursuant to 5 MRS §1804(2)(B), the Commission is required to promulgate standards for the qualifications assigned counsel. This rule sets forth those eligibility standards and the amendment enhances the Commission's authority to track and regulate attorney eligibility when events giving rise to questions about attorney's fitness to provide quality indigent legal services occur.

Basis statement:

This rule amends the MCILS standards for eligibility to provide indigent legal services to strengthen requirements that attorneys report bar disciplinary proceedings and criminal charges to the Commission by requiring that the reports be in writing and specifying exactly when the duty to report arises. The amendment also explicitly authorizes the Executive Director to remove or suspend attorneys from the roster of eligible attorneys and outlines the procedure for doing so.

Fiscal impact of rule:

No fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Corrections
Umbrella-Unit: 03-201
Statutory authority: 34-A MRS §§ 1208-B, 1210-D
Chapter number/title: Ch. 3, County Jail Operations Fund Distribution of Funds Formula
Filing number: 2015-163
Effective date: 8/31/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Legislature enacted by an emergency statute a requirement that the Department of Corrections adopt rules for the distribution to the counties of payments from the County Jail Operations Fund. The Supreme Judicial Court determined on August 6, 2015 that this statute was effective. The counties are in immediate need of these payments in order to continue operations of their jails.

Basis statement:

The Legislature enacted by an emergency statute a requirement that the Department of Corrections adopt rules for the distribution to the counties of payments from the County Jail Operations Fund. The Supreme Judicial Court determined on August 6, 2015 that this statute was effective. The counties are in immediate need of these payments in order to continue operations of their jails.

This rule determines the funding formula to be used by the Department of Corrections in providing counties with payments from the County Jail Operations Fund and sets out the information to be provided to the Department in order for it to distribute payments in accordance with statutory provisions.

Fiscal impact of rule:

Existing funding; no fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Corrections
Umbrella-Unit: 03-201
Statutory authority: 34-A MRS §3035
Chapter number/title: Ch. 10, Policy and Procedures Manual – Adult: **Subsection 27.3**,
Community Transition Program
Filing number: 2015-187
Effective date: 10/21/15
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The revisions to this rule will allow employers in the State of Maine, especially those who are having difficulties in finding employees, to have an additional pool of potential employees, while at the same time providing additional and more extensive work opportunities for prisoners to assist with community reintegration. These revisions are necessary to adopt on an emergency basis in order to ensure a viable work force for Maine employers who otherwise might be unable to sustain their businesses. The Maine Department of Corrections is proposing revision of the existing rule, Ch. 10 Subsection 27.3, “Community Transition Program”, pursuant to 34-A MRS §3035. The revisions include extending the eligibility for community transition programs from one year to two years prior to a prisoner’s current release date and changing the requirement of requiring a prisoner to serve 120 days in a Department facility to 30 days.

The revisions will allow eligible prisoners an additional year to participate in community transition programs, consisting of Work Release, Education Release and/or Public Service Release. It will also permit prisoners with short sentences to take greater advantage of these programs.

Fiscal impact of rule:
None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Corrections
Umbrella-Unit: 03-201
Statutory authority: 34-A MRS §§ 1208-B, 1210-D
Chapter number/title: Ch. 3, County Jail Operations Fund Distribution of Funds Formula
Filing number: 2015-207
Effective date: 11/9/15
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Legislature enacted by an emergency statute a requirement that the Department of Corrections adopt rules for the distribution to the counties of payments from the County Jail Operations Fund. The Supreme Judicial Court determined on August 6, 2015 that this statute was effective. The counties are in immediate need of these payments in order to continue operations of their jails.

Basis statement:

The Legislature enacted by an emergency statute a requirement that the Department of Corrections adopt rules for the distribution to the counties of payments from the County Jail Operations Fund. The Supreme Judicial Court determined on August 6, 2015 that this statute was effective. The counties are in immediate need of these payments in order to continue operations of their jails.

This rule determines the funding formula to be used by the Department of Corrections in providing counties with payments from the County Jail Operations Fund and sets out the information to be provided to the Department in order for it to distribute payments in accordance with statutory provisions.

Fiscal impact of rule:

Existing funding; no fiscal impact

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Corrections
Umbrella-Unit: 03-201
Statutory authority: 34-A MRS §3035
Chapter number/title: Ch. 10, Policy and Procedures Manual – Adult: **Subsection 27.4**, Furlough Pass / Furlough Leave Program (repeals Subsection 18.6, Community Rehabilitative Programs Furlough Policy – Classification)
Filing number: 2015-208
Effective date: 11/9/15
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Maine Department of Corrections repeals Ch. 10 Subsection 18.6, “Community Rehabilitative Programs Furlough Policy – Classification”, and its replacement with Ch. 10 Subsection 27.4, “Furlough Pass / Furlough Leave Program”.

This rule has not been revised since 1988 and needed to be updated to better reflect the current thinking and national trends related to the rehabilitative purposes of furloughs.

Basis statement:

The Maine Department of Corrections is repealing the existing rule, Ch. 10 Subsection 18.6, ‘Community Rehabilitative Programs Furlough Policy – Classification’, and replacing it with Ch. 10 Subsection 27.4, “Furlough Pass / Furlough Leave Program”.

The revisions clarify the purpose of a furlough, better aligning the purposes with the reasons stipulated in the statute; change when a prisoner is eligible for a furlough from five years prior to his or her current release date to two (2) years prior to his or her current release date; provide that only a prisoner who is eligible for community custody status is eligible for a furlough; clarify the conditions a prisoner must abide by on a furlough, the furlough application process, and monitoring of a prisoner while on furlough.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Corrections
Umbrella-Unit: 03-201
Statutory authority: 34-A MRS §3035
Chapter number/title: Ch. 10, Policy and Procedures Manual – Adult: **Subsection 27.3**,
Community Transition Program
Filing number: 2015-224
Effective date: 11/12/15
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This revision allows work release for prisoners who are not yet classified community custody, but who pose negligible risk in the community. Further, these prisoners will be under Department staff supervision while on work release. This revision is necessary to adopt on an emergency basis in order to provide a work force for a Maine employer needing extra employees for a seasonal business with a time sensitive production need.

Basis statement:

The revisions to this rule will enable the Commissioner to allow prisoners classified minimum custody to participate in a work release program without meeting the ordinary eligibility and application requirements if the program is for a specified period of time necessary to complete a special work release project. All prisoners participating in the program must be under the supervision of Department staff while at the work release site.

This revision allows work release for prisoners who are not yet classified community custody, but who pose negligible risk in the community. Further, these prisoners will be under Department staff supervision while on work release. This revision is necessary to adopt on an emergency basis in order to provide a work force for a Maine employer needing extra employees for a seasonal business with a time sensitive production need.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Economic and Community Development
Umbrella-Unit: 19-498
Statutory authority: 5 MRS §13058 sub-§2
Chapter number/title: Ch. 44, Community Development Block Grant Program: 2016 Final Statement
Filing number: 2015-242
Effective date: 12/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule will allow the DECD to allocate federal CDBG funds in accordance with the U.S. Department of Housing and Community Development regulations. It describes the design and method of distribution of the funds for the State of Maine Community Development Block Grant Program.

Basis statement:

The Program Statement for the 2016 State of Maine Community Development Block Grant Program includes rules and regulations for administering the State of Maine Community Development Block Grant Program's 2016 funding allocation. The Community Development Block Grant Program is administered pursuant to 5 MRS §13073.

The federal Department of Housing and Urban Development (HUD), on a yearly basis, makes an allocation of funds available to the State of Maine Community Development Block Grant Program. This final rule will enable adjustments in program definition, information and eligibility requirements on a regular and timely basis, provide the forum for regular and timely input about program operation and effectiveness from the public and from local governments, and allows the Office of Community Development the yearly opportunity to incorporate changes within the program that will improve and refine administration of the Maine CDBG Program.

The Community Development Block Grant Program is federally administered by the U.S. Department of Housing and Urban Development through Title I of the *Housing and Community Development Act of 1974*, as amended. The primary objective of the programs authorized under Title I of the *Housing and Community Development Act of 1974*, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c). [53 Fr 34437, September 6, 1988, as amended at 56 FR 56126, October 31, 1991; 61 Fr 11475, March 20, 1996]

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, and of the community development program of each grantee under the Title is the development of viable communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

In promulgating this Program Statement, the Office of Community Development was careful to adhere to the primary objective of the Act and to minimize potential costs to society wherever possible. To that end, the Office of Community Development will offer grant programs in an attempt to benefit Maine communities and low and moderate citizens in achieving their community and economic development objectives. Overall, the Office of Community Development believes that the regulatory approach taken in this Program Statement involves the least net cost to society and the greatest positive impact on low and moderate-income persons in the State of Maine. The Program Statement complies with federal and state statutes that mandate and describe program objectives maximizing net benefit to society and low and moderate-income persons.

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Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Fiscal impact of rule:

The Maine CDBG Program receives an annual allocation of federal funds from the U.S. Department of Housing and Urban Development. The State of Maine has recently received annual allocations in the range of \$10,400,000 to \$15,000,000. The DECD match for these funds for 2016 is \$276,756.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §13706
Chapter number/title: Ch. 180, Performance Evaluation and Professional Growth Systems
Filing number: 2015-040
Effective date: 3/18/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:
(See Basis statement / summary)

Basis statement / summary:

The US Department of Education requires that statutory revisions to 20-A MRS §13704 and §13706 regarding educator effectiveness and corresponding amendments be made to Maine Department of Education rule Ch. 180 be in effect by March 30, 2015 in order to be in compliance with the federal *Elementary and Secondary Education Act*. Specifically, the rule language has been changed to reflect that school administrative units will use state assessment data for English language arts. And math as a measure of performance for teachers and as a measure of performance for principals. The rule clarifies the usage of summative effectiveness ratings for certain categories of performance rating. An additional component has been added to the rules regarding monitoring of the performance evaluation and professional growth systems.

Fiscal impact of rule:
None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §4801 sub-§1 ¶F
Chapter number/title: Ch. 125, Basic Approval Standards: Public Schools and School Administrative Units
Filing number: 2015-092
Effective date: 5/14/2015
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:

Expedited amendment to Ch. 125 to address statutory revision regarding acceptable methods of rescheduling school days canceled due to weather or emergency closures.

Basis statement / summary:

Expedited amendment to Ch. 125 to address statutory revision regarding acceptable methods of rescheduling school days canceled due to weather or emergency closures.

Fiscal impact of rule:

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Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §7005(1)
Chapter number/title: Ch. 101, Maine Unified Special Education Regulation - Birth to Age Twenty
Filing number: 2015-111
Effective date: 7/19/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Department of Education amends Ch. 101 to: update rule to reflect current practice and comply with a recently enacted State Resolve; clarify provisions that require clarification; revise or remove outdated provisions; and make technical changes or corrections where needed.

Basis statement / summary:

The rule is a major substantive rule entitled "Chapter 101, Maine Unified Special Education Regulation Birth to Age Twenty". The purpose of the rule is to ensure that children with disabilities receive a free, appropriate public education consistent with federal law. The purposes of the amendments are to:

- Add provisions that define "regional special education program" and "service coordinator" (to replace "case manager" in favor of the federal terminology), provide clarity to the timeline for initial eligibility determinations, establish approval standards for regional special education programs, codify CDS's approval of private pre-school programs, establish parameters for special education monitoring in communities without schools (per Ch. 70, *Resolves*, June 26, 2013), establish parameters for provision of educational records electronically, and extend the option of complaint investigation as an enforcement mechanism for stand-alone mediation agreements
- Clarify responsibility for transition to IDEA, Part B (from Part C) programming, responsibilities of the receiving school administrative unit in cases of out-of-district placements, the scope and nature of "early intervention services", the scope of "consultation" as a special education service, approval standards for special purpose private schools, and the computation of public school special education tuition and private school special education tuition
- Revise procedures for out-of-district placements to reflect a change in practice
- Clarify the Department's ability to provide guidance to the field
- Remove the restriction on enforcement of mediation or resolution session agreements containing attorney's fees
- Correct a certification category and add/clarify contracted provider categories in the Finance section of the rule
- Make other technical changes (move a provision to another section; reflect a change described above in a related section of the rule; correct a typographical error; improve some wording; and outside the text of the rule, update the citation to the statutory authority for the rule-making

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §§ 13031 - 13038, 13035-A
Chapter number/title: Ch. 13, Qualifying Examinations by Teachers, Educational Specialists and Administrators
Filing number: 2015-115
Effective date: 6/23/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:

The testing requirements changes to Ch. 13 stem from the regular regeneration (revision) process employed by the Educational Testing Service (ETS). Each Praxis exam undergoes regeneration every five years. ETS conducts a multi-state standard setting study designed to assemble two separate groups of current practitioners for two to three days to review the validity and reliability of the test being regenerated. The end result is a recommended cut off score that is deemed appropriate for the just qualified candidate (JQC). Several of the tests required by the Maine Department of Education were recently regenerated, so the current Ch. 13 must be updated to reflect these changes.

Changes in Ch. 13 include new test codes, new test titles, recommended cut off scores, and language to allow old tests no longer being administered to be used for up to five years after which time only the new tests will be accepted.

With respect to Section 3.10 of the rule, the proposed revision came to mind during the running of the first comment period. The inequity of the provision was recognized as of sufficient importance to address during this rule-making process.

The section waives the PLT and Praxis I tests for "applicants who hold a current teaching certificate from another state who are seeking a teaching certificate in the same endorsement area." The practice has been to tell an applicant with a lapsed credential that if they renew their lapsed credential from out of state they can avoid taking the tests.

As can be seen, it is the fact of having held a full teaching credential, not whether the applicant has ever taken the PLT or the Praxis I that determines whether the applicant has the basic knowledge that is required to obtain a teaching credential. Accordingly, it is excessive to require PLT and Praxis I when the teaching credential is lapsed because passing the PLT and Praxis I test will not enable a teacher to renew the lapsed credential. The Praxis I test is to assess whether a person has sufficient high school level knowledge to be able to become a teacher, and PL T is a basic methods and pedagogy test to assess the knowledge of a beginning teacher. All teachers must pass a specific content methods course to have a full credential in a particular endorsement area.

By the same logic, an applicant who has held a full teaching credential in any endorsement area should not be required to take these basic tests since the tests do not show or advance the knowledge needed for any specific subject area teaching credential.

In-state applicants and out-of-state applicants have been treated equally regarding the need to take PLT and Praxis I. No rule made that explicit until this revision.

Not all Educational Specialists credential areas are required to take the PLT, such as School Nurse, Athletic Director, School Psychologists and Vocational Education Evaluator. The PLT will be required for these specialists when applying for a specialty area that requires the PLT.

Fiscal impact of rule: N/A

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: Ch. 21, Secular Textbooks and Services to Private School Pupils
Filing number: 2015-231
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:
This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: Ch. 25, Administration of Special Education Adjustments:
Definition of Budgetary Hardship
Filing number: 2015-232
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:
This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: Ch. 27, Rules for Determining Geographic Isolation Status
Filing number: 2015-233
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:
This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: **Ch. 58**, Child Nutrition Programs in Child Care Centers and Recreational Center and Camps
Filing number: **2015-234**
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:
This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: Ch. 120, Innovative Education Grants
Filing number: 2015-235
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:
This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Agency reports that underlying statute was repealed
Chapter number/title: **Ch. 245**, Standards for Education Programming for Certified Nursing Assistants
Filing number: **2015-236**
Effective date: 11/28/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement / summary:

This rule is being repealed since the statutory provisions have been repealed.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §§ 6451-6455
Chapter number/title: Ch. 45, Rule for Health Screening in Maine Public Schools
Filing number: 2015-243
Effective date: 12/13/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:

Revisions to the rule to include health screenings for Children in public preschool programs, which are reflected in the Ch. 124 *Basic School Approval Public Preschool Program Standards* regulations.

Fiscal impact of rule:
None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §§ 6451-6455
Chapter number/title: **Ch. 125**, Basic School Approval Standards: Public Schools and School Administrative Units
Filing number: **2015-248**
Effective date: 12/19/15
Type of rule: Routine technical
Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement / summary:

LD 97, Resolve 2015 ch. 2 directed the Department of Education and State Board of Education to amend Joint Rule Ch. 125, *Basic School Approval Standards: Public Schools and School Administrative Units*, to include lockdown drills as well as emergency evacuation drills within the established required number of drills to be performed.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D
Chapter number/title: **Ch. 500**, Stormwater Management
Filing number: **2015-002**
Effective date: 1/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting these rules to provide greater flexibility and clarity in its stormwater management programs.

Basis statement:

The Department's existing Ch. 500, *Stormwater Management*, rules contain both major substantive and routine technical elements. While most of the provisions implementing the Storm Water Management law are major substantive, thereby subject to the requirements established in 5 M.R.S. Chapter 375 §§ 8071 *et seq.*, the provisions in Section 6 of the current rules (entitled "Compensation Fees and Mitigation Credits"), are routine technical in nature and not subject to these requirements.

The Department is proposing to bifurcate the existing rules by deleting these routine technical provisions (Section 6) from Ch. 500 and incorporating them into a new and separate stand-alone rule.

Fiscal impact of rule:

This adoption is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While many of the proposed revisions (e.g., the general standards) provide additional flexibility to the regulated community, and are expected to reduce costs, other elements of the proposal (e.g. increased compensation fees for urban impaired streams) could increase costs to some applicants choosing to utilize these voluntary compliance options.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D(11)
Chapter number/title: **Ch. 501**, Stormwater Management Compensation Fees and Mitigation Credit
Filing number: **2015-003**
Effective date: 1/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting this rule to provide greater flexibility for the regulated community and reward applicants for more effective stormwater control efforts, while ensuring that the compensation fee program adequately funds mitigation projects.

Basis statement:

The Department is adopting a new rule specifically addressing stormwater compensation fees and mitigation credits. (These provisions were formerly included in Ch. 500 of the Department's rules. The Department is now updating and establishing these requirements as a stand-alone rule.) The Ch. 501 *Stormwater Management Compensation Fees and Mitigation Credit* rule establishes a program allowing applicants to undertake a compensation project, or pay a compensation fee in lieu of meeting certain stormwater control requirements. The rule establishes the required compensation fees along with earned mitigation credits for projects required to meet the general stormwater and phosphorous control standards. The Department is adopting this rule to provide greater flexibility for the regulated community and reward applicants for more effective stormwater control efforts, while ensuring that the compensation fee program adequately funds mitigation projects.

Fiscal impact of rule:

This adoption is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While the rule increases compensation fees for some projects required to meet the urban impaired stream standard, it provides additional opportunities for projects to earn mitigation credits from on-site and off-site mitigation activities. In addition, the rule establishes a graduated fee schedule for those sources choosing to pay a compensation fee in lieu of reducing phosphorus beyond a project's allotment. This graduated fee schedule rewards project developers for implementing more effective on-site phosphorous controls.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §438-A(5)
Chapter number/title: **Ch. 1000**, Guidelines for Municipal Shoreland Zoning Ordinances
Filing number: **2015-009**
Effective date: 1/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments to Ch. 1000 are, in part, the result of a stakeholder process that took place over several months in 2011, and which was summarized in a report to the legislature titled "Report on the Shoreland Zoning Stakeholder Process" and dated January 2012. The Department consulted with stakeholders again in 2014 prior to commencing this rule-making. The 2011 stakeholder process was initiated in response to proposed legislation to amend the *Mandatory Shoreland Zoning Act* and with the intent of updating the Ch. 1000 *Guidelines*. Recognizing that many issues were due to confusion over the rules, the Department facilitated a series of stakeholder group meetings to examine the rules to find ways to clarify provisions and build in more flexibility, while still maintaining important shoreland protections.

In addition to the amendments that resulted from the stakeholder process, recent statutory amendments were also incorporated into the proposed rule in order to make Ch. 1000 consistent with the *Mandatory Shoreland Zoning Act*.

Lastly, longstanding Department policies on certain topic have been incorporated into the rule to provide more clarity for both municipalities, who are charged with administering and enforcing shoreland zoning regulations, and shoreland zoned landowners.

Basis statement:

The Department is amending Ch. 1000 to incorporate a number of legislative changes to the *Shoreland Zoning Act* which have been adopted over the past three years. These include but are not limited to:

- P.L. 2013, Ch. 140 "An Act to Help Small Businesses and Promote Tourism by Allowing the Construction of a Deck over a River within a Downtown Revitalization Project,"
- P.L. 2013, Ch. 186 "An Act to Streamline the Approval of Accessibility Structures,"
- P.L. 2013, Ch. 231 "An Act Regarding Working Waterfront Projects,"
- P.L. 2013, Ch. 242 "An Act to Exempt Agriculture, Timber Harvesting and Public Employees from Certain Oversight in Shoreland Areas,"
- P.L. 2013, Ch. 320, "An Act to Amend the Mandatory Shoreland Zoning Laws,"
- P.L. 2013, Ch. 489 "An Act To Amend the Mandatory Shoreland Zoning Laws To Exclude Subsurface Waste Water Disposal Systems, Geothermal Heat Exchange Wells and Wells or Water Wells from the Definition of "Structure.""

There are also a number of changes intended to clarify the model ordinance and to better reflect Department interpretations. Some of these changes were suggested in a stakeholder process conducted in 2011, which was summarized in a report titled "Report on the Shoreland Zoning Stakeholder Process" and dated January 2012. The changes are also based on the professional judgment of the Department Staff charged with administering the Shoreland Zoning program.

Fiscal impact of rule:

The amendments to Ch. 1000 result in a minor fiscal impact to municipalities, as they will likely need to update local ordinance to comply with the new rule.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §38, MRS §341-H, PL 2013 c. 300
Chapter number/title: **Ch. 3**, Rules Governing the Conduct of Licensing Hearings
Filing number: **2015-015**
Effective date: 2/16/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment aligns the Department's *Rules Governing the Conduct of Licensing Hearings* with the notice requirements set forth in the *Maine Administrative Procedure Act* (5 MRS §9051-A(3)) as amended by P.L. 2013 c. 300.

Basis statement:

The November 2014 amendments to Ch. 3 remove the requirement to issue press releases and public service announcements of licensing hearings and replaces them with a general provision stating that some programs administered by the Department may have additional notice requirements for licensing hearings. The change was authorized by PL 2013 ch. 300 (LD 1497) "An Act to Make Minor Changes and Corrections to Statutes Administered by the Department of Environmental Protection," which amended the *Maine Administrative Procedure Act* to remove these requirements from statute.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 1319(O)(1), 2144
Chapter number/title: **Ch. 850**, Identification of Hazardous Waste
Filing number: **2015-030**
Effective date: 3/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of this rule-making is to add paint waste as a new type of universal waste. In addition the hazardous waste rules relating to universal waste were moved from Ch. 850 into a new Ch. 858.

Basis statement:

This rule change modifies Ch. 850 to primarily move the universal waste rules into a new Ch. 858. Clarifications and corrections of errors were also made to the chapter including language to ensure better linkage between Ch. 850 and 858. A public hearing on the changes was held on October 7, 2014 with a close of public comment on October 17, 2014.

Fiscal impact of rule:

This rule is expected to have a reduction in the cost of complying with regulations. The addition of paint waste from small hazardous waste generators to the universal waste rules will reduce the costs for these business owners of complying with the hazardous waste regulations.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 1319(O)(1), 2144
Chapter number/title: **Ch. 858**, Universal Waste Rules
Filing number: **2015-031**
Effective date: 3/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of this rule-making is to add paint waste as a new type of universal waste. In addition the hazardous waste rules relating to universal waste were moved from Ch. 850 into a new Ch. 858.

Basis statement:

This rule change creates Ch. 858. The existing universal waste rules were relocated from Ch. 850 to this chapter. A new addition to the universal waste rules was the incorporation of paint waste. Clarifications and corrections of errors were also made to the chapter including language to more clearly delineate certain requirements for universal wastes in Ch. 850 and 858.

Fiscal impact of rule:

This rule is expected to have a reduction in the cost of complying with regulations. The addition of paint waste from small hazardous waste generators to the universal waste rules will reduce the costs for these business owners of complying with the hazardous waste regulations.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 546
Chapter number/title: **Ch. 696**, Oil Discharge and Pollution Control Rules for Rail Tank Cars
Filing number: **2015-053**
Effective date: 3/26/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule addresses immediate threats to public health, safety and/or welfare. Over the past several years, increasing quantities of oil have been transported by rail tank cars in Maine and throughout the country. This increase has unfortunately been accompanied by a number of oil discharges and more significant accidents (e.g., accidents in Quebec and West Virginia). The increasing number of rail tank cars used for both transporting and the long-term storage of oil makes it imperative that rail tank cars used for long term storage are regularly inspected, and that the Department be provided with accurate and timely information in the event of an oil discharge or other emergency event.

Basis statement:

This rule establishes requirements for the remediation of any oil discharges from rail tank cars, requires the submission of federal Response Plans to the Department, and establishes inspection requirements for rail cars storing oil that are parked at a siding for more than 5 consecutive days. In recent years there has been a significant growth in the number of rail tank cars used to transport oil in Maine, with a concomitant increase in the use of these tank cars for longer-term storage of oil at rail sidings adjacent to rivers and residential areas. These practices pose a considerable risk to Maine's sensitive natural resources, including Class AA and Class A surface waters, and to groundwater serving public and private drinking water supplies. This emergency rule will provide the Department with accurate and timely information in the event of an oil discharge or other emergency event, and significantly reduce the likelihood of a release of oil that would create a local safety, public health, or environmental hazard.

Fiscal impact of rule:

This adoption will not have a significant fiscal impact on small businesses and other members of the regulated community. Oil discharge removal and remediation is currently required pursuant by statute at 38 MRS §548, and owners and operators of rail tank cars must already prepare written response plans pursuant to federal regulations at 49 CFR §130.31. Visual inspections of rail cars used for long-term oil storage may impose a small additional cost on the regulated community; the Department was unable to quantify this cost.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 304(1, 1-B, 13, 13-A), 1310-N(9)
Chapter number/title: **Ch. 400**, Maine Solid Waste Management Rules: General Provisions
Filing number: **2015-059**
Effective date: 4/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

- Make the rule consistent with legislation enacted over the past few years concerning determinations of public benefit for solid waste disposal facilities;
- Incorporate a general licensing standard for solid waste facilities requiring that the practices of these facilities are consistent with the State’s solid waste management hierarchy, as required by PL 2013 ch. 458;
- Incorporate an exemption from solid waste licensing requirements for “aged, fully-hardened asphalt” by including it in the existing definition of “inert fill”;
- Incorporate an exemption from solid waste licensing requirements for “wood pallets that are not pressure treated or visibly contaminated, and from which fasteners have been removed” by including them in the definition of “wood wastes”.
- Change the due date for annual reports submitted by solid waste transfer stations and storage facilities in order to make the date consistent with that of solid waste disposal facilities; this change will facilitate the department’s data gathering and reporting efforts;
- Revise definitions of Types IA, B, and C residuals to make them consistent with proposed revisions to Ch. 418;
- The Department also proposes minor changes to maintain consistency throughout the Solid Waste rules, update citations, correct formatting, and clarify existing language.

Basis statement:

The amendments to 06-096 CMR ch. 400 were proposed for several different purposes. First, the draft amendments make the rule consistent with legislation enacted over the past few years concerning incorporation of the State’s solid waste management hierarchy, as required by PL 2013 ch. 458, and determinations of public benefit for solid waste disposal facilities. The rule incorporates new exemptions from the solid waste management rules for “aged, fully-hardened asphalt” and for “wood pallets that are not pressure treated or visibly contaminated and from which fasteners have been removed”. Further, the revised rule provides for: change of the due date for annual reports submitted by solid waste transfer stations and storage facilities in order to make the date consistent with that of solid waste disposal facilities; revision of the definitions of Types IA, B, and C residuals; and, minor changes to update citations, modify formatting, and clarify existing language.

Fiscal impact of rule:

No significant fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B,13,13-A),1310-N(9)
Chapter number/title: **Ch. 418**, Maine Solid Waste Management Rules: Beneficial Use of Solid Wastes
Filing number: **2015-060**
Effective date: 4/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment updates Ch. 418 by replacing Appendix A (“Screening Standards for Beneficial Use”) with values of constituents listed in the “Maine Remedial Action Guidelines for Sites Contaminated with Hazardous Substances”, revised May 8, 2013 (“Maine RAGS”). The Maine RAGS are current risk based standards developed by the Department in collaboration with the Maine CDC. The development of the Maine RAGs included an opportunity for public comment. Replacing the existing Appendix A in this way will make the screening standards of Ch. 418 consistent with existing standards and will ensure that the most current risk based values are being applied. Specifically, the screening standard is “one-half the concentration of a RAGs listed chemical, using the lowest value among the concentration values for relevant exposure pathways and scenarios for the chemical”, because the general risk standard for beneficial use is more conservative than the standard applied to site clean ups. The 418 screening standard however, is not prohibitive; it is simply used as a threshold beyond which an applicant is required to include “a demonstration that the proposed beneficial use of the waste does not pose a significant risk to public health or an unreasonable threat to the natural environment.”

The draft rule also adopts a series of minor revisions to Ch. 418. These revisions serve to maintain consistent formatting and citation throughout the Solid Waste Rules, updating citations, removing redundant language and clarify existing language, and removing language that is no longer relevant.

Basis statement:

The Department adopts updates to 06-096 CMR ch. 418 (Ch. 418) to replace Appendix A (“Screening Standards for Beneficial Use”) with values of constituents listed in the “Maine Remedial Action Guidelines for Sites Contaminated with Hazardous Substances”, revised May 8, 2013 (“Maine RAGs”). The Maine RAGs are current risk based standards developed by the Department in collaboration with the Maine Center for Disease Control (CDC). The development of the Maine RAGs included an opportunity for public comment. Replacing the existing Appendix A in this way will make the screening levels of Ch. 418 consistent with contaminant guidelines used by other Department programs and will ensure that the most current risk based values are being applied. The Ch. 418 screening levels however, are not prohibitive; they are simply used as a threshold beyond which an applicant is required to include “a demonstration that the proposed beneficial use of the waste does not pose a significant risk to public health or an unreasonable threat to the natural environment.”

The Department also proposed a series of minor revisions to Ch. 418. These revisions serve to maintain consistent formatting and citation throughout the Solid Waste Rules, updating citations, removing redundant language and clarifying existing language, and removing language that is no longer relevant.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 401**, Landfill Siting Design and Operation
Filing number: **2015-066**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 402**, Transfer Station and Storage Sites for Solid Waste
Filing number: **2015-067**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 403**, Incineration Facilities
Filing number: **2015-068**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 405**, Water Quality Monitoring, Leachate Monitoring, and Waste Characterization
Filing number: **2015-069**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 410**, Composting Facilities
Filing number: **2015-070**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 419**, Agronomic Utilization of Residuals
Filing number: **2015-071**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §585-D
Chapter number/title: **Ch. 127**, New Motor Vehicle Emissions Standards
Filing number: **2015-093**
Effective date: 5/19/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose for this rule amendment is to delay implementation of California's aftermarket catalytic converter requirements for three years to June 1, 2018. In addition clarification for exempt vehicles is adopted in Section 4(F)(5).

Basis statement:

The purpose of this rule-making is to delay the effective date to June 1, 2018 for requiring new aftermarket catalytic converters installed in Maine be certified by California Air Resources Board (CARB). This regulation would apply to passenger, light and medium duty-vehicles that are certified to the California emission standards after the warranty for the original equipment has expired. The purpose for further delaying the effective date to June 1, 2018 is to allow more time for manufacturers to comply and for other states in the region to adopt these requirements. States in the Ozone Transport Region have asked EPA to adopt the CARB aftermarket catalytic converter standards. The Ozone Transport Region Committee has also drafted the state *Model Rule for Sale of Aftermarket Catalytic Converters* based on California's program. Additional time will allow these provisions to be adopted with a more uniform implementation process across the region.

Fiscal impact of rule:

The automotive aftermarket industry estimates the CARB certified new aftermarket catalytic converter sells for approximately 30% more than the federal ACC but 50% less than an original equipment part.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 585-A, 585-N; Resolves 2015 ch. 10
Chapter number/title: **Ch. 119**, Motor Vehicle Fuel Volatility Limit
Filing number: **2015-110**
Effective date: 7/15/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

During the 1st session of the 126th Maine Legislature, L.D. 1359 “An Act to Update and Simplify Maine Gasoline Requirements” was enacted, which requires retailers who sell gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, or Lincoln County to sell only federal reformulated gasoline referred to as RFG, commencing May 1, 2014. The use of RFG in the seven southern counties mentioned above, will allow Maine to discontinue the use of a “boutique” 7.8 Reid Vapor Pressure (RVP) fuel during the summer months which has been required since the State opted-out of the RFG program.

Basis statement:

During the 1st session of the 126th Maine Legislature, L.D. 1359 “An Act to Update and Simplify Maine Gasoline Requirements” was enacted, which requires retailers who sell gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, or Lincoln County to sell only federal reformulated gasoline referred to as RFG starting May 1, 2014, The use of RFG in the seven southern counties mentioned above, will allow Maine to discontinue the use of a “boutique” 7.8 Reid Vapor Pressure (RVP) fuel during the summer months which has been required since the State opted-out of the RFG program. Requiring the federally formulated fuel in southern Maine is a step toward the goal for a single fuel requirement state wide.

During the 2nd session the Legislature enacted LD 1796 “An Act to Delay Implementation of Reformulated Gasoline Requirements in Maine” recognizing the potential for fuel supply shortages and increased price volatility, Public Law 2014 Ch. 453 delays the implementation of RFG in southern Maine until June 1, 2015.

The Department is aligning Ch. 119 with PL 2014 ch. 453, and require implementation of the RFG program commencing June 1, 2015. Final adoption of this major substantive rule-making, as provisionally adopted by the Board on June 5, 2014, was authorized by the enactment of Resolve 2015 Ch. 10, which was signed into law by Governor LePage on April 16, 2015.

Fiscal impact of rule:

RFG will be distributed year round in southern Maine instead of the current 7.8 RVP “boutique” fuel during ozone season and conventional fuel in the winter months. The use of RFG in the seven southern counties will allow Maine to stop using a “boutique” fuel which in turn should reduce the cost of fuel in those counties during the summer months. However, using RFG instead of conventional fuel during the winter months may cost more. Staff determined the average price difference for fuels brought into New England was three cents higher for RFG than conventional fuel.

No longer having a seasonal fuel program in southern Maine should have less impact to small gasoline retailers.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 546
Chapter number/title: **Ch. 696**, Oil Discharge and Pollution Control Rules for Rail Tank Cars
Filing number: **2015-113**
Effective date: 6/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is being adopted to address immediate threats to public health, safety and/or welfare. Over the past several years, increasing quantities of oil have been transported by rail tank cars in Maine and throughout the country. This increase has unfortunately been accompanied by a number of oil discharges and more significant accidents (e.g., accidents in Quebec and West Virginia). The increasing number of rail tank cars used for both transporting and the long-term storage of oil makes it imperative that rail tank cars used for long term storage are regularly inspected, and that the Department be provided with accurate and timely information in the event of an oil discharge or other emergency event.

Basis statement:

The Department is adopting a new rule that establishes requirements for the remediation of any oil discharges from rail tank cars, requires the submission of federal Response Plans to the Department, and establishes inspection requirements for rail cars storing oil that are parked at a siding for more than 5 consecutive days. In recent years there has been a significant growth in the number of rail tank cars used to transport oil in Maine, with a concomitant increase in the use of these tank cars for longer-term storage of oil at rail sidings adjacent to rivers and residential areas. These practices pose a considerable risk to Maine's sensitive natural resources, including Class AA and Class A surface waters, and to groundwater serving public and private drinking water supplies. This rule will provide the Department with accurate and timely information in the event of an oil discharge, and significantly reduce the likelihood of a release of oil that would create a local safety, public health, or environmental hazard.

The Department of Environmental Protection posted this rule to a 30-day public comment period ending on May 1, 2015. The Department's final text includes several revisions made in response to comments received during the written comment period.

Fiscal impact of rule:

This adoption will not have a significant fiscal impact on small businesses and other members of the regulated community. Oil discharge removal and remediation is currently required pursuant by statute at 38 MRS §548, and owners and operators of rail tank cars must already prepare written response plans pursuant to federal regulations at 49 CFR §130.31. Visual inspections of rail cars used for long-term oil storage may impose a small additional cost on the regulated community; the Department was unable to quantify this cost.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8055(3), 38 MRS §§ 341-H, 1694
Chapter number/title: **Ch. 888**, Designation of Four Members of the Chemical Class Phthalates as Priority Chemicals
Filing number: **2015-114**
Effective date: 6/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The proposed rule would designate four members of the chemical class phthalates as priority chemicals and require reporting for certain product categories that contain one or more of these regulated phthalates. The rule would apply to manufacturers of specified product categories that contain intentionally added di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), or diethyl phthalate (DEP).

This draft rule is proposed by citizen petition, which was received by the Department on May 14, 2014.

In order to make the originally proposed draft rule more consistent with currently effective rules implemented by the Safer Chemicals Program, and to better align the proposed rule with Maine law, the Department has made substantial changes to the originally proposed draft. This public notice provides an opportunity for public review and comment regarding those changes.

Basis statement:

On May 14, 2014, a citizen petition to initiate rule-making to designate four members of the chemical class phthalates as priority chemicals was submitted to the Department of Environmental Protection (“Department”). The petition sought to establish di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), and diethyl phthalate (DEP) as Priority Chemicals, and require manufacturers of specified categories of children’s products to report their intentional use in such products to the Department.

In accordance with the *Maine Administrative Procedure Act*, 5 MRS §8055, any person may petition an agency for the adoption or modification of any rule. Within 60 days after receiving such a petition, the agency must either notify the petitioner of its denial, or initiate the appropriate rule-making proceedings. However, because this petition was submitted by more than 150 registered voters of the State of Maine, the Department was required by law to initiate rule-making (5 MRS §8055(3)). The nature of the petition’s proposed rule Ch. 888 is such that proceedings follow the Department’s routine technical rule-making process.

The draft rule, as proposed in the citizen’s petition, was published on July 9, 2014. Following the direction provided by the *Maine Administrative Procedure Act*, 5 MRS §8052(1), a public hearing on this petition was held on July 29, 2014. The public comment period closed on September 29, 2014, with the Department receiving over 900 comments.

Because numerous sections of petitioner’s originally proposed draft rule were in conflict with governing statute and rule, it was necessary for the Department to modify language in the proposed draft to better align the rule with currently effective Maine law. Some sections of the proposed draft rule were substantially revised from the petitioner’s proposal as a result of these necessary changes. Additionally, some sections of the rule required modification to provide greater clarity. This required the Department to republish the proposed draft in its amended form on February 11, 2015, and provide for another public comment period. This second comment period specifically requested input from the public concerning the

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

modification of language from the originally proposed draft (5 MRS §8052(5)(B)) and closed on March 13, 2015, with the Department receiving 36 comments.

Basis for Amended Language

The Commissioner is unable to adopt the originally proposed applicability section of draft rule Ch. 888 because it fails to identify distributors as a regulated entity and omits exemptions which appear in previous priority chemical rules. Additionally, the originally proposed language was unclear and did not accurately reflect the statutory language of, “product for sale in the State” (38 MRS §1695(1)) when describing products subject to regulation under this rule.

Within section 2 of the proposed draft rule, changes were necessary to properly cite Department rule chapter 880.

Several definitions within the originally proposed rule were modified to be consistent with the Department’s other rules and with federal regulatory definitions so that the regulated community can more readily comply with the rule. Section 2(I) was amended to remove unnecessary descriptive language so that it is clearer which compounds are regulated, similar to changes made in section 3(A). Rather than duplicate the list of criteria from statute, the Department made section 3(B) more meaningful by describing which of the designation criteria had been met.

Because the rule must be consistent with statute, the Commissioner cannot adopt the originally proposed tiered reporting system. Governing law states that regulated entities must submit applicable information, “not later than 180 days after a priority chemical is identified...” (*Toxic Chemicals in Children’s Products*, 38 MRS §1695(1)). The Department is unable to create a reporting condition in rule which does not align with statutory requirements.

Petitioner’s proposed rule provided a waiver of disclosure for regulated entities that are subject to reporting requirements in the State of Washington. However, Maine law specifies that priority chemical disclosure applies to a manufacturer or distributor providing a product for sale in the State of Maine (*Toxic Chemicals In Children’s Products*, 38 MRS §1695(1)). This specificity regarding the location of commerce, and the substantial distance between the Maine and Washington marketplaces, leaves this section of the petitioner’s proposed draft misaligned with statute and unenforceable. Additionally, information reported to Washington State through its *Children’s Safe Products Act*, Ch. 70.240 RCW, does not mirror information required by Maine law.

These amendments to proposed rule Ch. 888 have resulted in a statutorily aligned and enforceable regulation, which fits within the scope and purpose of the Department’s existing Safer Chemicals Program. Because evidence in the record shows that the phthalates listed in the proposed rule have met the criteria for designation as Priority Chemicals, and that publicly accessible information which reflects the information requested by the proposed rule does not exist, the Department moves to designate the four phthalates named in proposed rule Ch. 888 as Priority Chemicals.

Fiscal impact of rule:

Because the proposed rule applies to manufacturers or distributors of certain products, the fiscal impacts will fall mainly on manufacturers of consumer products which contain intentionally added amounts of the four proposed priority chemicals. Filing the required report information with the Department is expected to cost a complying entity nominal time and effort. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management, at this time that amount is yet to be determined. The impact of this reporting fee will be dependent on the regulated entity’s ability to absorb such a cost, which had not been planned for in annual preparation for the budgetary impacts of government compliance.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §585-A
Chapter number/title: **Ch. 129**, Surface Coating Facilities
Filing number: **2015-120**
Effective date: 7/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Section 184 of the *Clean Air Act* requires states to implement or update reasonably available control technology “RACT” controls on all major VOC and NO_x emission sources and on source categories covered by a Control Technique Guideline “CTG” document. EPA defines RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. In the late 1970’s, EPA published a CTG recommending VOC controls for miscellaneous metal parts and products, which was updated in September 2008 to include VOC limits for miscellaneous plastic parts and products.

Basis statement:

In 2008, the EPA published CTGs recommending VOC controls for miscellaneous metal and plastic parts coatings.

The amendments expand Ch. 129 to include miscellaneous metal and plastic parts, which include, but are not limited to, metal and plastic components of the following types of products as well as the products themselves: fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products. The EPA had not previously issued a CTG covering these products. The amendment applies a threshold to categories 4 through 6 of 2.7 tons per 12 month rolling period above which sources are subject to the rule. VOC emission limits are expressed in weight per volume units instead of a weight per surface area coated.

The amendments provide VOC limits various coating processes based upon reductions being achieved by either a low VOC coat or in combination with other control techniques. The Rule includes three categorical exemptions and additional exemptions based upon the nature of the coating applied.

Fiscal impact of rule:

There may be minor costs for facilities to convert to low VOC coatings or install add-on control technology and to comply with the required record keeping. EPA believes that low-VOC coating materials that can meet the recommended control levels in the CTG are already available at a cost that is not significantly greater than the cost of coating materials with higher VOC contents.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D; Resolve 2015 ch. 22
Chapter number/title: **Ch. 500**, Stormwater Management
Filing number: **2015-132**
Effective date: 8/12/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting these rules to provide greater flexibility and clarity in its stormwater management programs.

Basis statement:

The amendments to Ch. 500 Stormwater Management are intended to provide greater flexibility while encouraging the use of innovative stormwater designs that will accommodate measures for addressing climate change, resiliency, and adaptation in our infrastructure. Elements include: 1) treatment levels in the general standards have been revised to provide additional stormwater treatment options where the standard treatment requirements are impractical or cannot be met; 2) a new voluntary Low Impact Development (LID) credit has been established that reduces the volume of stormwater that must be treated if an applicant uses LID techniques; 3) new treatment levels have been created for redevelopment projects, through the use of scaled treatment requirements based on stormwater impact changes; and 4) the appendices, which provide basic performance standards for a variety of stormwater management and associated activities, have been updated to reflect current stormwater best management practices. There are a number of minor revisions to the rule that will provide greater clarity and consistency with other Department rules.

The Department and Board of Environmental Protection held a public hearing for this rule on October 16, 2014. The comment period closed on October 27, 2014. The Department's final proposal includes a number of revisions made in response to testimony received during the public hearing and the written comment period. Additional minor changes were made in response to review by the Office of the Maine Attorney General.

The final adoption of the amendments to this major substantive rule was authorized by Resolve 2015 ch. 22, only if the rule was amended 1) in Section 4(E) to clarify, for the purposes of the urban impaired stream standard, that where there is a Department-approved management and monitoring plan in place and monitoring demonstrates that a stressor in the watershed is contributing to the impairment of the urban impaired stream, the Department may require the applicant to use alternative or additional stormwater treatment measures to address the identified stressor; and 2) to extend the permit shield provisions of the rule to the implementation of innovative measures in order to increase the probability that low-impact development measures will be installed. The Department made these additional amendments pursuant to the Resolve.

Fiscal impact of rule:

This change is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While many of the revisions (e.g., the general standards) provide additional flexibility to the regulated community, and are expected to reduce costs, other elements of the adoption (e.g. increased compensation fees for urban impaired streams) could increase costs to some applicants choosing to utilize these voluntary compliance options.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8055(3), 38 MRS §§ 341-H, 1694
Chapter number/title: **Ch. 885**, Designation of Formaldehyde as a Priority Chemical and Regulation of Formaldehyde in Children's Products
Filing number: **2015-134**
Effective date: 7/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule implements Maine's *Toxic Chemicals in Children's Products* law (38 MRS §§ 1691-1699-B), which, as set forth in 38 MRS §1692, has the purpose of protecting the health, safety and welfare of children and other vulnerable populations by reducing their exposure to chemicals of high concern by substituting safer alternatives when feasible. Due to a lack of information in the public domain regarding the use of chemicals listed as Maine's chemicals of high concern, Maine law confers upon the Department the authority to designate chemicals as priority. When a chemical is designated as a priority chemical the Department has the regulatory authority to require the disclosure of information about that chemical's use in certain children's product categories when intentionally added above the *de minimis* level. Utilizing this statutory framework, the Department is most effective in achieving the law's stated goal through analysis of this reported information, which may provide details regarding the extent to which children's products provide the opportunity for exposure to priority chemicals. Information collected by the Department can then be further analyzed to determine whether additional regulation is necessary.

Summary:

This chapter designates formaldehyde as a priority chemical and requires reporting for certain children's products that contain intentionally added formaldehyde.

Fiscal impact of rule:

Because the rule applies to manufacturers or distributors of certain children's products, the fiscal impacts will fall mainly on manufacturers of certain children's products which contain intentionally added amounts of the priority chemical. Filing the required report information with the Department is expected to cost a complying entity nominal time and effort. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management. At this time that amount is yet to be determined. The impact of this reporting fee will be dependent on the regulated entity's ability to absorb such a cost, which had not been planned for in annual preparation for the budgetary impacts of government compliance.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 585, 585-A
Chapter number/title: **Ch. 141**, Conformity of General Federal Actions
Filing number: **2015-136**
Effective date: 7/27/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Ch. 141 currently incorporates sections of 40 CFR 51 as published November 30, 1993, which satisfies the 1993 federal requirement that states incorporate Federal Conformity into their State Implementation Plan (SIP). Subsequently, in 2005, the United States Congress passed the *Safe, Accountable, Flexible, Efficient Transport Equity Act: A Legacy for Users*, eliminating the mandate for States to adopt and submit General Conformity SIPs. As a result, EPA amended its regulations to make the adoption and submittal of General Conformity SIPs optional. These amendments also repealed the majority of the relevant sections 40 CFR 51 as they were duplicative of 40 CFR 93.

Fiscal impact of rule:
None anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8051; 38 MRS §341-H
Chapter number/title: **Ch. 2**, Rule Concerning the Processing of Applications and Other Administrative Matters
Filing number: **2015-185**
Effective date: 10/19/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments to Ch. 2 will facilitate the electronic submission of applications, appeals and petitions, and eliminate the requirement to submit an original paper document within five working days of an electronic submission. The Department is also adopting revisions that will clarify the transfer of ownership definition in this rule, and allow for a more complete assessment of both the financial and technical capacity of a prospective licensee, before any license for a hazardous waste facility, solid waste disposal facility, waste oil facility, and biomedical waste facility license is transferred. In addition, the Department is aligning the permit by rule review provisions in Ch.2 with those in the Department's Ch. 305, *Natural Resources Protection Act Permit By Rule Standards*.

Basis statement:

The amendments to the Department's Ch. 2, *Rule Concerning the Processing of Applications and Other Administrative Matters*, will allow the submission of electronic signatures in a form acceptable to the Department, and eliminate the requirement to submit an original paper document within five working days of an electronic submission, thereby helping to modernize and better align the Department's submission requirements with current business practice.

The Department also amends the Permit By Rule provisions of Ch. 2 to provide for a 14 calendar day review period, which is consistent with the Department's Ch. 305, *Natural Resources Protection Act- Permit By Rule Standards*.

Although the Department proposed additional revisions to clarify the transfer of ownership definition in this rule, and allow for a more complete assessment of both the financial and technical capacity of a prospective licensee before any license for a hazardous waste facility, solid waste disposal facility, waste oil facility, and biomedical waste facility license is transferred, the Department has withdrawn those portions of the from consideration at this time.

Fiscal impact of rule:

The amendments to Ch. 2 will provide a minor cost savings to affected parties.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection, **Board of Underground Storage Tank Installers**
Umbrella-Unit: **06-481**
Statutory authority: 32 MRS §10004
Chapter number/title: **Ch. 3**, Certification of Underground Oil Tank Installers
Filing number: **2015-013**
Effective date: 2/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal purposes of the rule are to amend the standards for a person to qualify for a variance from the rule's apprenticeship requirements and to allow a certified installer from another state to qualify for reciprocity.

Basis statement:

The Board of Underground Storage Tank Installer's reasons for this rule-making are two-fold. This rule-making amends the current apprenticeship variance requirements to make them more comparable to the apprenticeship training and experience requirements. This rule-making clarified the variance requirements regarding the passage of the initial examination, demonstration of ethical practice, evidence of satisfactory performance of out-of-state underground oil storage facility installations and removals, and submission of copies of current equipment manufacturer training certifications.

The Board also amended the standards an installer certified in another state needs to meet when applying for reciprocity to install and remove tanks in Maine without having to meet the apprenticeship requirements. The objective of this amendment is to require an applicant to meet a more comprehensive set of standards to ensure they are qualified to satisfactorily perform the duties of a Maine certified tank installer.

History: This rule was first adopted in 1988 with the specific purpose to ensure individuals installing and removing underground oil storage tanks are doing so in accordance with Maine's technical and safety standards. Certification of installers was a component of the State's overall effort to reduce the number and severity of oil discharges from underground oil storage tanks. It has been amended four times since 1988. This chapter establishes a certification program for underground oil tank installers. It describes the initial examination process, the apprenticeship requirements and final examination requirements. In addition, it establishes a mechanism for upgrading of certificates, granting reciprocity, renewing and issuing of certificates, and certifying employees of the Department of Environmental Protection.

Fiscal impact of rule:

No measurable fiscal impact is anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Environmental Protection, **Board of Underground Storage Tank Installers**
Umbrella-Unit: **06-481**
Statutory authority: 32 MRS §10004.2
Chapter number/title: **Ch. 6**, Certification of Underground Storage Tank Inspectors
Filing number: **2015-014**
Effective date: 2/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule amendment is to change the application for reciprocity to reflect that reciprocity is open to residents of states other than Maine.

Basis statement:

History: This rule was initially adopted in 2002 and amended once in 2006. Annual compliance inspections of underground oil storage facilities are required by statute to be conducted by Board of Underground Storage Tank certified inspectors. This chapter establishes a certification program for underground oil storage tank inspectors. The rule includes the application, examination, certification, and renewal requirements. Reciprocity requirements are also provided.

Purpose of rule-making: The purpose of this rule-making is to amend the Board of Underground Tank Installers' regulation governing the certification of underground oil storage tank inspectors. It modifies language found in the reciprocity requirements of the rule to reflect that reciprocity is open to residents of states other than Maine.

The amendment is based on consultation between the Board of Underground Tank Installers and the Office of the Attorney General. The Board's members include certified tank installers, a member nominated by the Maine Energy Marketers Association, the commissioner's representative and a municipal fire chief.

Fiscal impact of rule:

No measurable fiscal impact is anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §969-A(14); 10 MRS §1026-M(11); 10 MRS §1026-A
Chapter number/title: Ch. 314, Regional Economic Development Revolving Loan Program
Filing number: 2015-063
Effective date: 4/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule incorporates recent statutory changes made by the Legislature to the program. Also, we anticipate additional funding of \$8 million from the State pursuant to bonds issued pursuant to Public Law 2014 ch. 596.

Basis statement:

The amendment implements the changes made by P.L. 2013 ch. 596, and Public Law 2013 ch. 605: making loans more flexible and broadening eligibility for small businesses to include mixed-use and value-added natural resource enterprises; raising the maximum number of employees of eligible businesses from 50 to 100; and increasing maximum loan sizes from \$250,000 to \$350,000. The amendment does not become effective until the Authority receives additional funding from the state of at least \$1 million.

Fiscal impact of rule:

The rule will not cost the state, counties, or municipalities anything. New voter-approved funds will flow into the program and be disbursed by regional agencies in the form of loans to eligible businesses. The amendment will not impose any costs on municipalities or counties.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §1100-ZZ; 16 MRS §5219-GG
Chapter number/title: Ch. 325, Maine New Markets Capital Investment Program
Filing number: 2015-165
Effective date: 9/1/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment, adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees.

Basis statement:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees. Similar changes were proposed in recent legislation, L.D. 297, in the First Session of the 127th Legislature. While there appeared to be extremely broad support in the Legislature for the elimination of so-called "one-day loans" and other transactions with potentially similar deficiencies in direct public benefit, differences over other provisions in L.D. 297 resulted in the bill not being enacted. Without the changes made by this rule amendment, the program remains subject to unintended use if applications for tax credits are filed for transactions that utilize these mechanisms without the intended direct public benefit.

The rule was adopted on an emergency basis on August 20, 2015. The Authority found that emergency adoption of the rule was warranted since there is a real threat that new applications could be filed under the existing rule prior to the completion of the non-emergency rule-making process that would utilize the balance of tax credits under the program, thereby making the amendment futile. The Authority finds that the imminent threat of loss of significant state tax credits to transactions that do not provide sufficient levels of direct public benefit represents an immediate threat to the public's general welfare and adoption of the rule amendment on an emergency basis necessary to avoid such threat.

The rule amendment is intended to have retroactive effect to be applicable to any Certification Application that has not been approved at the time of the effective date of the amendment.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Fiscal impact of rule:

- A. The cost of this rule amendment to the agency will be covered by fees charged.
 - B. It is expected that no one will be adversely affected by the amendments other than parties who would use the program in an unintended manner.
 - C. The rule is not expected to have any material effect on competition or the employment market.
 - D. The above statements were made based on the Authority's administration of the program.
- The amendment will not impose any costs on municipalities or counties.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §1100-2; 36 MRS §5219-GG
Chapter number/title: Ch. 325, Maine New Markets Capital Investment Program, Amendment 3
Filing number: 2015-209
Effective date: 11/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment, adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees.

Basis statement / summary:

This rule establishes the procedures, standards and fees applicable to applicants under the Authority's Maine New Markets Capital Investment Program (the "Program"). Under the Program, the Authority may allocate tax credit authority to a qualified community development entity, which allocation acts as a reservation of refundable tax credits that may subsequently be approved by the Authority if the qualified community development entity obtains qualified equity investments as certified by the Authority as provided by 10 MRS §1100-Z.

Fiscal impact of rule:

The amendment will not impose any costs on municipalities or counties.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 26**, Day Health Services

Filing number: **2015-054**

Effective date: 3/31/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This rule is being proposed to provide financial stability to Day Health Service providers. The rule is being proposed to be retroactive to November 1, 2014. These changes are subject to CMS approval.

Basis statement:

The Department has determined that the adoption of this rule is necessary to provide financial stability to Day Health Services providers. The rule is being adopted to have a retroactive application to November 1, 2014, subject to approval by the Centers for Medicare and Medicaid Services.

This rule-making will not impose any costs on municipal or county governments, or on small businesses employing fewer than twenty employees.

Fiscal impact of rule:

This rule-making is estimated to cost \$38,676.00 for State Fiscal Year 2015 and \$51,326.00 for State Fiscal Year 2016 and all future years.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; *Social Security Act* §1915(b), 42 U.S.C. 1396n; *Rosa’s Law*, Pub. L. 111-256; PL 2012, ch. 542, §B(5)

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 113**, Non-Emergency Transportation (NET) Services

Filing number: **2015-055**

Effective date: 4/5/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

In August 2013, MaineCare began delivering NET services using regional, risk-based, pre-paid ambulatory health plan brokerages, in alignment with Maine’s eight (8) transit regions, pursuant to a §1915(b) waiver that was approved by the Centers for Medicare and Medicaid (CMS). NET brokers were selected through a competitive procurement process, following the Department’s Request for Proposals (RFP). During the first year of implementation, significant problems were experienced in several NET regions. As a result, the Department decided to re-issue the RFP for NET services in six of the eight regions. In two regions, the original NET brokers’ contracts were renewed. For the other six regions, the Department selected new NET brokers, based on the bids they submitted in response to the RFP.

On July 7, 2014, CMS approved the Department’s request to renew its NET waiver for a two year period, beginning July 1, 2014 and ending on June 30, 2016. The Department negotiated new contracts with its NET brokers, effective August 1, 2014, and these contracts include several important changes. As a result, MaineCare’s NET policy must be changed to conform to the NET waiver and the contracts.

Basis statement:

This rule is being adopted in order to bring the policy into conformity with Department-negotiated contracts with transportation Brokers. In August 2013, MaineCare began delivering non-emergency transportation (NET) services using regional, risk-based, pre-paid ambulatory health plan brokerages, in alignment with Maine’s eight (8) transit regions, pursuant to a §1915(b) waiver that was approved by the Centers for Medicare and Medicaid Services (CMS). NET Brokers were selected through a competitive procurement process, following the Department’s Request for Proposals (RFP). During the first year of implementation, there were significant problems in several NET regions. As a result, the Department re-issued the RFP for NET services in six of the eight regions. In two regions, the original NET Brokers’ contracts were renewed. For the other six regions, the Department selected new NET Brokers, based on the bids they submitted in response to the RFP.

On July 7, 2014, CMS approved the Department’s request to renew its NET waiver for a two year period, beginning July 1, 2014 and ending on June 30, 2016. The Department negotiated new contracts with its NET Brokers, effective August 1, 2014, and these contracts include several important changes. Therefore, MaineCare’s NET policy has been changed to conform to the NET waiver and the contracts.

These changes include: the allowance of pharmacy trips, including those required on an urgent basis; revisions to the map of NET regions that more clearly delineate all eight regions and reflect a slight change in the geographic distribution of one region; addition of the requirement that parents or guardians of minors under the age of 12 years old authorize the specific type of transportation when minors travel unaccompanied; addition of language

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

requiring prior authorization for out-of-state NET trips; addition of the requirement that the NET Broker contacts a Member's assigned care coordinator to verify services for members receiving "Home and Community Based Services" under Sections 18 and 20 of the *MaineCare Benefits Manual*; as well as several other changes designed to help clarify existing requirements of the NET program.

Additionally, the Department made a number of changes to the rule as a result of comments made during the rule-making and subsequent Departmental findings. These changes include: the addition of and clarification to certain definitions; clarification of provisions regarding related travel expenses; amendment to the NET advisory committee meeting requirement to every six months; addition of "Autism Spectrum Disorder" to the rule permitting the accompaniment of an Escort without the need for a Departmental determination; further explanation of the reimbursement rules; clarification on the limited circumstances for out-of-region Broker cooperation; as well as several other non-substantive technical, grammatical, and formatting changes.

Fiscal impact of rule:

This rule-making is estimated to have no fiscal impact.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 15**, Chiropractic Services

Filing number: **2015-062**

Effective date: 4/10/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Department changes the limit calculation methodology from “rolling year” to a calendar year for purposes of clarity. This rule also removes the current hard cap of 12 visits per year and allow for additional visits when medically necessary. The Department imposes a prior authorization requirement for additional visits for members over the age of twenty-one (21).

In addition, the changes clarify the types of medical providers that are required to be involved in determining a member’s eligibility for Chiropractic Services.

If approved by the Centers for Medicare and Medicaid (CMS), x-ray services that are medically necessary for diagnosis and treatment of a subluxation shall be a covered service in Section 15. This rule-making includes language that explains the reimbursement for chiropractic x-rays. X-ray services provided through this section do not require prior authorization.

Finally, the Department makes a number of technical changes in an effort to provide clarity and eliminate duplicative language. These changes include the elimination of Sec. 15.04 “Specific Eligibility for Care”; elimination of the reference to the Division of Program Integrity (Sec. 15.08); and elimination of other unnecessary language regarding reimbursement, co-pays, and dispute resolution.

Basis statement:

The adoption of this rule will change the limit calculation methodology for chiropractic services from “rolling year” to a calendar year, for purposes of clarity. This rule removes the current hard cap of 12 visits per year and allows for additional visits when medically necessary. The Department will impose a prior authorization requirement for additional visits for members over the age of twenty-one (21). This rule will ensure MaineCare members will receive the medically necessary Chiropractic Services they require.

In addition, these adopted changes will clarify the types of medical providers that are required to be involved in determining a member’s eligibility for Chiropractic Services. This requirement will help in determining if services are medically necessary.

X-ray services that are medically necessary for diagnosis and treatment of a subluxation shall be a covered service in Section 15. This rule-making language explains the reimbursement for chiropractic x-rays. X-ray services provided through this section do not require prior authorization. This will be consistent with other provider medical services that do not require a prior authorization for x-rays.

Additionally, the Department has made a number of technical changes in an effort to provide clarity and eliminate duplicative language. These changes include the elimination of Sec. 15.04 “Specific Eligibility for Care”; elimination of the reference to the Division of Program Integrity (Sec. 15.08); and elimination of other unnecessary language regarding reimbursement, co-pays, and dispute resolution.

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Following the public comment period, the Department made several non-substantive changes to the rule as a result of further review. These changes include the elimination of redundant language in Section 15.02-3; clarification to language in Section 15.03; and the relocation of certain provisions to best reflect the responsibilities of different providers under the Section and to emphasize that medical necessity is a requirement for all members to be eligible for services.

Additionally, the Department inserted language in the final rule to reflect provisions that are subject to approval by the Centers for Medicare and Medicaid Services (CMS). Chiropractic services are currently covered under the Department's State Plan. However, the Department is awaiting State Plan Amendment approval from CMS for changes it seeks to make to these services as reflected in the rule.

Finally, the Department expects that this rule-making will cost in State funds approximately \$13,906.87 in SFY15 and \$27,680.86 in SFY16. When the Department filed the "Notice of Agency Rule-making Proposal" for Section 15, the Department inaccurately reported the SFY15 fiscal impact to be \$27,814.00 in State funds on the Fact Sheet. The numbers contained in this Basis Statement reflect the Department's updated and accurate estimates.

Fiscal impact of rule:

The Department expects that this rule-making in SFY15 will cost approximately \$27,814.00 in State funds.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; 22 MRS §3174-WW and 22 MRS §42(8)

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 65**, Behavioral Health Services

Filing number: **2015-065**

Effective date: 4/13/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:
(See Basis statement.)

Basis statement:

Adoption of this rule brings Maine into compliance with LD 386, *An Act to Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare* (22 MRS §3174-WW). The rule adds comprehensive tobacco cessation treatment including counseling and products as a covered service for all members, regardless of age, who wish to cease the use of tobacco. There are no annual or lifetime dollar limits on tobacco cessation treatment, nor are there any limits on attempts to quit. Members may not be charged a co-pay for tobacco cessation treatment and they may not be required to participate in counseling to receive products.

Tobacco cessation products are “Covered Drugs,” reimbursable pursuant to Ch. II, Section 80.05 of the MBM. As Covered Drugs, tobacco cessation products are included on the Department’s Preferred Drug List (PDL), as set forth in Ch. II, Section 80.07-5. The PDL may be accessed via the Department’s website. There are no annual or lifetime dollar limits on tobacco cessation treatment, nor are there any limits on attempts to quit. Members may not be charged a co-pay for tobacco cessation products and they may not be required to participate in counseling to receive medications.

The following four Current Procedural Terminology (CPT) codes are added to Ch. III Section 65: 99406 (smoking and tobacco use cessation counseling; individual, greater than 3 minutes up to 10 minutes), 99407 (smoking and tobacco use cessation counseling; individual, greater than 10 minutes), 99411 (preventive medicine, group counseling; 30 minutes) and 99412 (preventive medicine, group counseling; 60 minutes).

If the Centers for Medicare and Medicaid Services (CMS) approve the Department’s State Plan Amendment, and pursuant to 22 MRS §42(8), these changes to Section 65 will be effective retroactively to August 1, 2014.

Three additional technical changes are also included in this proposed rulemaking:

1. Update of language referencing the former Children’s Behavioral Health Services (CBHS) and Office of Adult Mental Health Services (OAMHS) to the current Office of Child and Family Services (OCFS) and Office of Substance Abuse and Mental Health Services (SAMHS), to reflect current Departmental structure;
2. Replacement of the term “Authorized Agent” to “Authorized Entity” and,
3. In Ch. III, a change to the rate listed for CPT code H2012 with HN UQ TL and HN UQ TM modifiers from \$16.65 to \$14.65.

The additional proposed technical changes are intended to keep policy language updated and reflect correct rate allowances.

Fiscal impact of rule:

This rule-making is estimated to have a minimal fiscal impact to the Department.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; PL 2013 §SS-2; Resolves 2015 ch. 1

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 21**, Allowances for Home and Community Benefits for Adults with Intellectual Disabilities or Autistic Disorder

Filing number: **2015-094**

Effective date: 6/14/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

The Department is adding procedure codes and modifiers for the new services to the corresponding Ch. II of Section 21. These include:

- New procedure codes for Assistive Technology services, which has three components: the Assessment and Training, the Assistive Technology Devices and the monthly cost of the internet or cable transmission.
- New procedure codes for Career Planning services, Home Support-Remote Support services, Shared Living services, Work Support-Group services and Maintenance Occupational Therapy services delivered by an Certified Occupational Therapy Assistant (COTA).
- Modifiers for Home Support-Remote Support services to indicate whether interactive support is being delivered or the member is only being monitored.
- A new modifier for Home Support-Family Centered Support to indicate that the service is Home Support-Family Centered Support.

Additionally, the Department proposes the addition of billing instructions to Work Support-Group to describe how to submit for reimbursement when services are delivered in a group setting.

Basis statement:

This is a final adoption of a major substantive rule. The following outlines the procedural history of this rule adoption as well as the specific changes to the rule.

By way of background, Section 21 services are governed by the Centers for Medicare and Medicaid Services (CMS). On April 18, 2014, CMS approved changes to the Section 21 waiver, effective July 1, 2014, adding new services and clarifying other services, as requested by the Department. In order to add these new services, the Department promulgated a routine technical rule-making for Ch. II Section 21. The Commissioner adopted the Ch. II Section 21 rule-making on or about August 22, 2014, with an effective date of the changes to services of September 1, 2014.

However, Ch. III Section 21, which governs the reimbursement of services under Ch. II, is a major substantive rule. As such, Ch. III Section 21 needs approval by the Legislature before becoming effective. Pursuant to 5 MRS §8072, the Department engaged in the rule-making process set forth under 5 MRS §8052 up until the point of adoption. This included conducting a public hearing on April 14, 2014, and accepting public comments until April 24, 2014. Thereafter, the Commissioner provisionally adopted the Ch. III Section 21 rule on August 22, 2014. The Department submitted the provisionally adopted rule to the Legislature for its review on or about August 29, 2014.

Meanwhile, because federal law requires that provider claims for Medicaid services be submitted within one year of providing the Medicaid service (42 CFR 447.45), and because

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Medicaid reimbursement must be made timely, the Department determined to concurrently adopt an emergency major substantive rule for Ch. III Section 21. **The emergency major substantive rule became effective on September 1, 2014.** Thus, the Department has been able to reimburse for new services under Ch. II Section 21 pending the Legislature's review of the provisionally adopted major substantive rule.

On March 17, 2015, the Legislature authorized the final adoption of the major substantive rule in *Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 21: Allowances for Home and Community Benefits for Adults with Intellectual Disabilities or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services* (Resolves 2015 ch. 1).

Given the Legislature's authorization for final adoption, as well as the limit on the application of an emergency rule, the Department now finally adopts the Ch. III Section 21 major substantive rule the Commissioner had provisionally adopted on August 22, 2014. This final adopted rule mirrors those changes currently in place since September 1, 2014, under the emergency major substantive rule. These changes correspond to the CMS-approved Section 21 waiver and include:

MaineCare reimbursement for the following services:

Home Support – Remote Support services which includes: (a) Home support- Remote Support – Monitor Only; and (b) Home support – Remote Support – Interactive Support, Assistive Technology services, which includes: (a) Assistive Technology – Assessment services; (b) Assistive Technology – Transmission (Utility Services); and (c) Assistive Technology – Devices services. Adding these services complies with P.L. 2013, Ch. 368, PART SS, which authorized MaineCare “reimbursement for the use of appropriate electronic technology as a means of reducing the costs of supporting people currently being served...”

To comply with the waiver amendment, the Department added a new modifier (“U5”) to the code for Home Support – Family Centered Support – which indicates that the services are Family Centered Support services.

The Department also added: Career Planning services.

This adopted major substantive rule also separates Home Support Services into four different services: 1) Home Support-Agency Home Support (Per Diem), 2) Home Support-Quarter Hour (1/4 hour), 3) Home Support-Family Centered Support and 4) Home Support-Shared Living.

The Department deleted some of the language in the second paragraph of Principle 1900 (Billing Procedure), that relates to rates for Work Support Services – Group, and replaced the language with the actual rates per unit, depending on the number of members in a group.

This adopted major substantive rule also added: Occupational Therapy (Maintenance) – which can be provided by a Certified Occupational Therapy Assistant (COTA) under the supervision of an Occupational Therapist Registered (OTR).

This final adoption of a major substantive rule shall take effect upon the Commissioner's final adoption and filing with the Secretary of State, at which time the emergency major substantive rule in effect since September 1, 2014 will expire.

Fiscal impact of rule:

This rule-making is estimated to be cost neutral.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; PL 2013 ch. 441

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 5**, Ambulance Services

Filing number: **2015-105**

Effective date: 6/3/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Department is seeking to make several changes in this rule-making. The changes are as follows:

1. In Ch. II, remove two references to a telephone number provided for out-of-state providers to request prior authorization. This number is no longer in service. Instead of calling the number, providers are instructed to obtain prior authorization (PA) through the MaineCare portal.
2. In Ch. III, change reimbursement rates for Medicare reimbursable ambulance codes to 65% of Medicare rates. This change is being proposed pursuant to the directive in LD 1274, Public Law ch. 441, 22 MRS §3174-JJ, Sec. 1.;
3. In Ch. III, remove a clarifying sentence from HCPCS code A0998 “Ambulance Response and Treatment, No Transport.” The sentence states, “Patient is treated but refuses transport or is deceased and therefore requires no transport.” This clarifier does not appear in the HCPCS manual and should be removed.

Basis statement:

This rule is being adopted in order to comply with P.L. 2013 ch. 441 §1, *An Act to Sustain Emergency Medical Services throughout the State*, codified at 22 MRS §3174-JJ, which requires that MaineCare change reimbursement rates for Medicare reimbursable ambulance codes to 65% of Medicare rates beginning March 1, 2015. Additionally, the rule is being adopted to remove references to outdated telephone numbers and to provide updated instructions for out-of-state providers to request prior authorization through the MaineCare portal. Finally, Ch. III of the rule adoption deletes a clarifying sentence contained in the fee schedule that does not appear in the HCPCS manual.

Following public hearing and further review by the Department, the Department made additional non-substantive changes to the rule proposal, including: (1) replacement of the outdated terms “Intermediate Care Facility for People with Mental Retardation” and “ICF-MR” with the terms “Intermediate Care Facility for Individuals with Intellectual Disabilities” and “ICF-IID”; (2) clarification of the prior authorization requirements in Ch. II Sections 5.05-1 and 5.08-2 to be consistent with changes in the rule proposal about the MaineCare portal; (3) removal of the provisions in Ch. III Section 5.05 which address MaineCare’s billing system to align with the reimbursement changes set forth in P.L. 2013 ch. 441 §1 and 22 MRS §3174-JJ; and (4) correction of a clerical error in the fee schedule in Ch. III Section 5.06 to properly reflect that the fixed fee of \$285.00 for HCPCS code A0428 is associated with ambulance services associated with an involuntary admission to a psychiatric facility.

If the Centers for Medicare and Medicaid Services (CMS) approves the Department’s State Plan Amendment, and pursuant to 22 MRS §42(8), changes to the reimbursement rates under Section 5 will be effective retroactive to March 1, 2015.

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Fiscal impact of rule:

The Department expects that this rulemaking will be cost a total of \$138,858.92 in State Fiscal Year 2015, \$53,391.26 of which will be from the General Fund. In State Fiscal Year 2016, the cost is expected to be \$416,576.77, \$160,173.77 of which will be from the General Fund.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 35**, Hearing Aids and Services
Filing number: **2015-106**
Effective date: 6/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department repeals *MaineCare Benefits Manual*, Ch. II & III Section 35, “Hearings Aids & Services”.

Basis statement:

The Department is repealing *MaineCare Benefits Manual*, Ch. II & III Section 35, “Hearing Aids and Services”. The services covered under this section will instead be covered under Ch. II Section 60, “Medical Supplies and Durable Medical Equipment”. Changes to Section 60 are being adopted concurrently with the repeal of Section 35.

These changes to the *MaineCare Benefits Manual* are dependent upon approval by the Centers for Medicare and Medicaid Services (CMS).

In addition, all reimbursement rates will be set forth per the fee schedule located at the following website: http://www.maine.gov/dhhs/audit/rate-setting/documents/S60MedSuppandDME_002.pdf.

Fiscal impact of rule:

This rule-making is cost neutral.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173; §440.70 (b)(3) ,P.L.2012 ch. 542 §B (5), 42 CFR, Part 440 Public Law 111-256, (also referred to as "Rosa's Law"), Public Law 111-148, Subtitle F, Section 6505
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 60**, Medical Supplies and Durable Medical Equipment
Filing number: **2015-107**
Effective date: 6/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

This rule is being adopted to amend several sections of Ch. 101, MaineCare Benefits Manual, Ch. II Section 60, “Medical Supplies and Durable Medical Equipment”. The Department is adopting the following changes to the rule:

1. This rule replaces all references to the term “Mentally Retarded” or “MR” to “Individual with Intellectual Disability” or “IID” as required by P.L. 2012 ch. 542 §B (5), *An Act to Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language*.
2. The Department adds medically necessary hearing aids as a covered service for members age twenty-one (21) and older and includes hearing aid services for members under age twenty-one (21) in Section 60. Both monaural and binaural hearing aids are available to members meeting the Department’s criteria for medical necessity.
3. The Department also adds Continuous Glucose Monitors (CGM) as a covered MaineCare service, to include prior authorization criteria used to determine medical necessity. The Department has made this change in order to assure that members have access to the most appropriate and cost effective treatment available.
4. The Department also increases the limits for Orthopedic modifications and inserts classified with HCPCS Level II codes as Medical and Surgical Supplies (i.e. Diabetic Shoes, Fittings and Modifications), as identified in Section 60.07-1(A), to allow eligible members to receive up to a combined total of six (6) units of modifications and/or inserts per year (meaning three (3) pairs of inserts or six (6) modifications). This change is adopted in order to maintain consistency with established Medicare limits.
5. The Department made a number of technical changes in an effort to provide clarity and eliminate duplicative language. These changes include updating the limitations of incontinence supplies (Sec.60.07-1(c), re-organization of the list of equipment normally used in a NF or ICF-IID care facility (Sec. 60.05-13), to provide clarity (no equipment has been added or eliminated), adding definitions for the terms Aesthetic or Deluxe Durable Medical Equipment, Hearings Aids and Prior Authorization have been added , revision of the term “store” in Section 60.01-12(C) and update website addresses to assure accuracy.
6. Following public comments on this rule, the Department: (1) clarified the replacement criteria for hearing aids in Section 60.05-8; (2) created a new section to ensure medically necessary binaural hearing aid coverage for members under 21 years old; (3) clarified the language distinguishing adults from children under this policy; (4) amended the language in Section 60.05 regarding which types of providers can perform the face-to-face encounter and

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write orders for DME; (5) corrected a clerical error related to the criteria for Continuous Glucose Monitors; (6) and made some minor technical and formatting changes.

7. This rule is being adopted in conjunction with the repeal of *MaineCare Benefits Manual*, Ch. II and III Section 35, "Hearing Aids and Services", and is dependent upon the approval of the Centers for Medicare and Medicaid Services.

Fiscal impact of rule:

The Department expects that this rule-making will cost in state funds approximately \$544,860.00 in SFY15 and \$597,259.00 in SFY16. The Department does not anticipate that this rule-making will impose any cost on municipal or county governments, or on small businesses employing fewer than twenty employees.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 45**, Hospital Services
Filing number: **2015-122**
Effective date: 7/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is a recommendation of the MaineCare Redesign Task Force, established pursuant to PL 2011, Ch. 657, Part T, “An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013.” In addition, this rule will implement a hospital classification change that resulted in a methodology change to the supplemental pool.

Basis statement:

This adopted rule reduces the supplemental pool for non-critical access hospitals and hospitals reclassified to a wage area outside Maine and rehabilitation hospitals from \$65,321,301 to \$64,769,417. The rule also changes the definition of “discharge” to change the time span for which readmissions are not reimbursed to fourteen (14) days. This change has been approved by CMS. However, due to comments received, the Department in the adopted rule is adding an exception to the fourteen (14) day readmission policy, for members with mental illness and chemical dependency and substance abuse conditions. This exception needs the approval of CMS. Additionally, if CMS approves, due to comments received, the Department will not adopt the proposed change of “the same primary diagnosis” in the definition of “discharge”, so that the rule will continue to use “a diagnosis within the same DRG”. Finally, the Department removed “if CMS approves” from those provisions which have been approved by CMS.

The reason the Department is adopting the fourteen (14) day policy is because this change was recommended by the MaineCare Redesign Task Force December, 2012, *Report*. The fourteen (14) day policy is a budget initiative that is also designed to increase the quality of the hospital readmission policies. CMS has approved the fourteen (14) day policy.

Fiscal impact of rule:

The Department anticipates that this rule-making will save the Department approximately \$145,069 in SFY 15 and \$1,737,122 in SFY 16.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; PL 2013 ch. 368 §SS-2; Resolve ch. 24 (LD 8)

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 29**, Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder

Filing number: **2015-124**

Effective date: 8/8/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

The Department is adding procedure codes and modifiers for the new services added to the corresponding Ch. II of Section 29. These include:

- New procedure codes for Assistive Technology services, which has three components: the Assessment and Training, the Assistive Technology Devices and the monthly cost of the internet or cable transmission.
- New procedure codes for Career Planning services, Home Support-Quarter Hour services, Home Support-Remote Support services, Work Support-Group services and Work Support-Individual services.
- Modifiers for Home Support-Remote Support services to indicate whether interactive support is being delivered or the member is only being monitored.

Additionally, the Department is adding billing instructions to Work Support-Group to describe how to submit for reimbursement when services are delivered in a group setting. The reason for the rule changes are to comply with the budget bill PL 2013 ch. 368 directing the Department to add Assistive Technology. The Department is complying with Resolve ch. 24, LD 8, *Resolve, Directing the Department of Health and Human Services to Provide Coverage under the MaineCare Program for Home Support Services for Adults with Intellectual Disabilities or Autistic Disorder*. This Resolve directs the Department to add Home Support as a covered Service to this waiver. The Department is also complying with a CMS directive to separate Home Support into separate services. The Work Support and Career Planning changes are to comply with LD 8, *Resolve, Directing the Department of Health and Human Services to provide coverage under the MaineCare program for Home Support Services for Adults with Intellectual Disabilities or Autistic Disorder*.

Basis statement:

This is a final adoption of a major substantive rule. The following outlines the procedural history of this rule adoption as well as the specific changes to the rule.

Section 29 services are governed by a Centers for Medicare and Medicaid Services (CMS) Medicaid waiver. On April 18, 2014, CMS approved changes to the Section 29 waiver, effective July 1, 2014, adding new services as requested by the Department. In order to add these additional services to the *MaineCare Benefits Manual*, the Department engaged in routine technical rulemaking for Ch. II Section 29. The Commissioner adopted the Ch. II Section 29 rule with changes to these services effective September 1, 2014.

However, Ch. III Section 29, which governs the reimbursement of services under Ch. II, is a major substantive rule. As such, Ch. III Section 29 requires legislative approval before becoming effective. Pursuant to 5 MRS §8072, the Department engaged in the rule-making process set forth under 5 MRS §8052 up until the point of adoption. This included conducting a public hearing on April 15, 2014, and accepting public comments until

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April 25, 2014. The Commissioner provisionally adopted the Ch. III Section 29 rule on August 22, 2014. Thereafter, the Department submitted the provisionally adopted rule to the Legislature for its review.

Meanwhile, because federal law requires that provider claims for Medicaid services be submitted within one year of providing the Medicaid service (42 CFR 447.45), and because Medicaid reimbursement must be made timely, the Department determined to concurrently adopt an emergency major substantive rule for Ch. III Section 29. The emergency major substantive rule became effective on September 1, 2014. Thus, the Department has been able to reimburse for new services under Ch. II Section 29 pending the Legislature's review of the provisionally adopted major substantive rule.

On April 28, 2015 the Legislature enacted *Resolve, Regarding Legislative Review of Portions of Ch. 101: MaineCare Benefits Manual, Ch. III, Section 29: Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services* (Resolves 2015, Ch. 13). The law took effect May 10, 2015.

Given the Legislature's authorization for final adoption, as well as the limit on the application of an emergency rule, the Department now finally adopts the Ch. III Section 29 major substantive rule the Commissioner had provisionally adopted on August 22, 2014.

This final adopted rule mirrors those changes currently in place since September 1, 2014, under the emergency major substantive rule. These changes correspond to the CMS-approved Section 29 waiver and include:

1. Allowances for Assistive Technology services, including (a) Assistive Technology-Assessment; (b) Assistive Technology – Transmission (Utility Services); and (c) Assistive Technology – Devices. Adding these services complied with PL 2013 ch. 368 §SS, which authorized MaineCare “reimbursement for the use of appropriate electronic technology as a means of reducing the costs of supporting people currently being served [on the Section 29 waiver].” Assistive Technology – Devices are limited to a cap of \$6,000 per year, and Assistive Technology – Transmission (Utility Services) are limited to a cap of \$50.00 per month.
2. Allowances for Home Support services, including: (a) Home Support – Quarter Hour; (b) Home Support – Remote Support – Monitor Only; and (c) Home Support – Remote Support – Interactive Support. Adding these services complied with Resolves 2013, Ch. 24 (*Resolve, Directing the Department of Health and Human Services to Provide Coverage under the MaineCare Program for Home Support Services for Adults with Intellectual Disabilities or Autistic Disorder*).

Additionally, the Department clarified the reimbursement and billing for Work Support – Group services so that the exact reimbursement rate, depending on the number of members in the group, is indicated.

Finally, the Department deleted Home Accessibility Adaptation services from the calculation for the Standard Unit Rate, since this service is paid per invoice, as indicated in Appendix I.

Fiscal impact of rule:

This rule-making is estimated to be cost neutral.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; PL 2014 ch. 582

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 67**, Nursing Facility Services

Filing number: **2015-167**

Effective date: 9/15/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This rule-making will: (1) provide a new methodology for calculating recapture of depreciation upon the sale of a nursing facility, and (2) add reimbursement for Ventilator Care Services as a separately reimbursable service (i.e., above and beyond the daily NF rate). The purpose of providing a new methodology for calculating recapture of depreciation upon the sale of a nursing facility is to comply with Public Law 2014 ch. 582. The purpose of adding reimbursement for Ventilator Care Services as a separately reimbursable service is to ensure that nursing facilities may be reimbursed for members that need Ventilator Care Services.

Basis statement:

The Department of Health and Human Services (the “Department”) determined that the adoption of this rule is necessary to (1) provide a new methodology for calculating recapture of depreciation upon the sale of a nursing facility (“NF”), and (2) to add ventilator care services as a separately reimbursable service in NFs for eligible MaineCare members.

On April 29, 2014, as a result of Public Law 2014 ch. 582, the 126th Maine Legislature enacted 22 MRS §3175-D(2), which requires a new methodology for calculating the recapture of depreciation upon the sales of nursing facilities that occur on or after July 1, 2014. On October 30, 2014, the Department published a notice of reimbursement methodology change, pursuant to 42 CFR §447.205. In December of 2014, the Department submitted proposed changes regarding depreciation recapture to its State Plan Amendment for NF services to the Centers for Medicare and Medicaid Services (“CMS”). While CMS has not yet approved those changes, the Department anticipates receiving CMS approval in the near future. The Department requested that the NF SPA changes regarding depreciation recapture be made effective November 1, 2014. As such, if CMS approves, for sales of NFs occurring on or after July 1, 2014, the depreciation recapture rule changes in Ch. III Section 67 will have a retroactive effective date of November 1, 2014.

Certain NFs in the state of Maine provide ventilator care services to MaineCare members, however, the Department seeks to broaden the availability of these services to NFs state-wide. As such, through this rule-making, the Department is making ventilator care services a separately reimbursable service for NFs, over and above their standard rate of reimbursement for NF services, effective July 1, 2015. To receive this separate reimbursement for eligible members, the NF must seek and obtain prior authorization from the Department. During the prior authorization process, the Department will determine an appropriate rate of reimbursement for the NF on a case by case basis, depending on the member’s needs. The prior authorization will include each item or service included in the reimbursement rate.

On August 12, 2015, pursuant to 42 CFR §447.205, the Department published a notice of reimbursement methodology change for the Section 67 changes regarding ventilator care services. The Department has not yet submitted the corresponding SPA changes to CMS, but

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

it intends to submit the Section 67 SPA changes regarding ventilator care services on or before September 30, 2015.

As a result of comments, the Department made changes to both the depreciation recapture language, as well as the ventilator care provisions, and it also made various technical changes.

Based on a recent State Plan Amendment approval from Centers for Medicare and Medicaid Services, a number of “if CMS approves” references have been deleted from the final rule. The following areas in Ch. III were affected:

- 1.4, page 2, Base Year definition.
- 17.4.2, page 25, Allowable Administration and Management Expenses.
- 17.4.3, page 27, Central Office operational costs.
- 17.4.4, page 28, Dividends and Bonuses.
- 17.4.5, page 28, Management Fees.
- 18.12, page 51, Payment for High MaineCare Utilization.
- 22.3.3.1, page 55, Source of Base Year Cost Data.
- 2.3.3.2, page 56 Case Mix Index.
- 22.3.3.2. a, page 57, Direct Care Regional Index.
- 22.3.3.4. a. & b., page 57, Array of the base year case mix and regionally adjusted cost per day.
- 22.3.4.2, page 58, Direct Care Add-on.
- 22.3.4.3, page 58, Hold Harmless Provision.
- 22.4.1 & 22.4.3, page 59, 22.4.4 & 22.4.5, page 60 Routine Cost Component.
- 23.3, page 62, Prospective Rate.
- 23.4, page 62, Funding Adjustment.
- 31.1, page 69, COLA.

The anticipated fiscal impact of these rule changes are as follows:

(1) Per the Public Law 2014 ch.582 (22 MRS §3175-D(2)), providing a new methodology for calculating recapture of depreciation upon the sale of a nursing facility carries a potential current biennium cost increase, but the impact cannot be quantified at this time because it is dependent upon the timing and details of federal approval of the SPA changes, and on the timing and number of facility sales.

(2) The Department estimates that the General Fund impact of adding separate reimbursement for Ventilator Care Services as a separately reimbursed service is \$220,792 in SFY 2016 and \$219,615 in SFY 2017.

This rule-making will not impose any costs on municipal or county governments, or on small businesses employing fewer than twenty employees.

Fiscal impact of rule:

(1) Per the Public Law, providing a new methodology for calculating recapture of depreciation upon the sale of a nursing facility carries a potential current biennium cost increase, but the impact cannot be quantified at this time because it is dependent upon the timing and details of federal approval and on the timing and number of facility sales. (2) The Department estimates that the General Fund impact of adding reimbursement for Ventilator Care Services as a separately reimbursable service is \$220,792 in SFY 2016 and \$219,615 in SFY 2017.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173; 5 MRS §8054; PL 2015 ch. 267 Part A, UU
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 45**, Hospital Services
Filing number: **2015-181**
Effective date: 10/1/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

In compliance with the State’s biennial budget, this rulemaking reduces reimbursement for non-emergency use of the Emergency Department (“ED”). This reimbursement reduction applies to in-state Acute Care Non-Critical Access Hospitals only. The rule change reduces reimbursement of non-emergency use of the ED to the rate of a comparable visit delivered in a private physician office for a non-facility based provider.

Basis statement:

Pursuant to the State’s biennial budget, Public Law 2015, Ch. 267 (702 – L.D. 1019), the Department of Health and Human Services (the “Department”) is reducing the reimbursement rate for non-emergency use of the emergency department (“ED”) for in-state Acute Care Non-Critical Access Hospitals only.

On June 30, 2015, the Maine State Legislature voted to override the Governor’s veto of the budget, which then became effective on July 1, 2015. Pursuant to Part UU Sec. UU-1 of the budget, the Legislature provided that the Department need not demonstrate emergency findings in support of this emergency rule-making.

In an effort to reduce the inappropriate and costly use of ED services, if the Centers for Medicare and Medicaid Services (“CMS”) approves, effective October 1, 2015, these rule changes reduce reimbursement of non-emergency use of the ED to the rate of a comparable physician’s office visit. Specifically, the Evaluation and Management portion of the Ambulatory Payment Classification for ED services will be reimbursed at the current outpatient physician’s office rate listed in the MaineCare Fee Schedule. Non-emergent use of the ED will be identified by the primary diagnosis, as indicated by the ICD-10 codes listed in *MaineCare Benefits Manual*, Ch. III Section 45, “Hospital Services”, Appendix B.

On September 14, 2015, the Department published a notice of change in reimbursement methodology, pursuant to 42 CFR §447.205. The Department intends to submit its State Plan Amendment changes to CMS for approval on or before September 30, 2015, with a requested effective date of October 1, 2015.

These emergency rule changes to Section 45 Ch. III shall be effective for ninety (90) days. To prevent lapse, after filing this emergency rulemaking, the Department shall propose these changes pursuant to 5 MRS §8052.

Fiscal impact of rule:

This rule-making is estimated to result in a total cost savings in SFY 2016 of \$3,083,707 including \$1,157,315 state dollars and a total savings in SFY 2017 of \$4,111,609 including \$1,534,864 state dollars.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(8), 3173; PL 2015 ch. 267, 702 – L.D. 1019, Parts A, UU, UUUU
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 2**, Adult Family Care Services
Filing number: **2015-188**
Effective date: Retroactive to July 1, 2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The purpose of this emergency rule is to increase the reimbursement rates by 4% for Adult Family Care Services at residential care facilities provided under the *MaineCare Benefits Manual*, Ch. III Section 2. This rate increase accords with the State's biennial budget, which likewise authorizes the Department to implement the rate increases retroactive to July 1, 2015, through emergency rule-making. See P.L. 2015, ch. 267, 702 - L.D. 1019, Parts A, UU, and UUUU.

Basis statement:

The Department of Health and Human Services adopts this emergency rule to increase reimbursement rates by 4% for adult family care services at residential care facilities.

In conjunction with the development of the State's biennial budget, the Department proposed to increase the reimbursement rate for providers of adult family care services at residential care facilities. The Maine State Legislature approved this rate increase when it enacted the budget, Public Law 2015, Ch. 267 (702 – L.D. 1019). Specifically, Part A, Section A-32, "Medical Care – Payments to Providers 0147" provides funding to increase the reimbursement rates by 3% beginning July 1, 2015. Part UUUU, Section UUUU-1, "Medical Care – Payments to Providers 0147" provides additional funding to increase that rate from 3% to 4%.

To implement this rate increase, the budget also authorized the Department to adopt emergency rules pursuant to 5 MRS §8054 "without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare." Part UU, Sec. UU-1.

Given that the budget approved the rate increase as of July 1, 2015, the Department's adoption of this emergency rule makes the rate increases retroactively effective to July 1, 2015. The Department has authority for the retroactive effective date under 22 MRS §42(8) because these changes increase reimbursement for providers, ensure that members have access to medically necessary covered services, and otherwise have no adverse impact on either MaineCare providers or members.

This emergency rule adoption for Ch. III Section 2 shall be effective for ninety (90) days. 5 MRS §8054(3). To prevent a lapse in this increased reimbursement rate following the expiration of the emergency period, the Department is concurrently engaging in the routine rulemaking process for this rule.

Fiscal impact of rule:

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

The Department expects that this emergency rule-making in conjunction with the routine rule-making for Ch. III Section 2 will cost the Department approximately \$82,987 in SFY 20 16.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(8), 3173; 5 MRS §8054; PL 2015 ch. 267, Parts A, UU
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 96**, Private Duty Nursing and Personal Care Services
Filing number: **2015-201**
Effective date: Retroactive to July 1, 2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The purpose of this emergency rule is to increase the reimbursement rates for Personal Support Services (PSS) provided under the *MaineCare Benefits Manual*, Ch. II and III, Section 96. This rate increase is pursuant to the State's biennial budget, which likewise authorizes the Department to implement the rate increases retroactive to July 1, 2015, through emergency rulemaking. See P.L. 2015, ch. 267, Parts A and UU. To avoid a reduction in services available to members as a result of the increase in reimbursement rates for PSS, this emergency rule-making includes a proportional increase in the monthly cost caps for affected levels of care.

Basis statement:

The Department of Health and Human Services (the "Department") adopts this emergency rule to increase reimbursement rates for personal support services.

Pursuant to the State's biennial budget, the Department is increasing the reimbursement rate for providers of personal support services. On June 30, 2015, the Maine State Legislature enacted the budget, Public Law 2015, Ch. 267. Specifically, Part A, Section A-32, "Medical Care – Payments to Providers 0147," provides funding to increase the rates for personal support services beginning July 1, 2015.

Services reimbursed by *MaineCare Benefits Manual*, Section 96, "Private Duty Nursing and Personal Care Services" must be delivered in accordance with an authorized plan of care that meets medical necessity criteria and is reimbursable within a pre-determined monthly cost cap. The monthly cap is based on the members' eligibility category. To avoid a reduction in services available to members as a result of the increase in reimbursement rates for personal support services, the Department is adopting a proportional increase in the applicable monthly cost caps set forth in Ch. II, Section 96, Appendix #2.

To implement this rate increase, the budget authorized the Department to adopt emergency rules pursuant to 5 MRS §8054 "without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare." Part UU, Sec. UU-1.

Given that the budget approved the rate increase as of July 1, 2015, the Department's adoption of this emergency rule makes the rate increases retroactively effective to July 1, 2015. The Department has authority for the retroactive effective date under 22 MRS §42(8) because these changes increase reimbursement for providers, ensure that members have access to medically necessary covered services, and otherwise have no adverse impact on either MaineCare providers or members.

This emergency rule adoption for Ch. II and Ch. III, Section 96 shall be effective for ninety (90) days. 5 MRS §8054(3). To prevent a lapse in this increased reimbursement rate following the expiration of the emergency period, the Department is concurrently engaging in the routine rule-making process for this rule.

Fiscal impact of rule:

The Department expects that this emergency rulemaking, in conjunction with the routine technical rulemaking for Chapters II and III, Section 96, will cost the Department approximately \$1,112,552 in SFY 2016 including \$417,513 in state dollars and \$1,118,512 in SFY 2017 including \$417,540 in state dollars.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(8), 3173, Part UU Sec. UU-1; 5 MRS §8054, P.L. 2015 Ch. 267 (Sec. A-32)
Ch. number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III Section 19**, Home and Community Benefits for the Elderly and for Adults with Disabilities
Filing number: **2015-202**
Effective date: Retroactive to July 1, 2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Effective July 1, 2015, the state's biennial budget, increased the reimbursement rate for providers of Attendant Care Services and Personal Care Services in the *MaineCare Benefits Manual*, Ch. III Section 19, "Home and Community-Based Benefits for the Elderly and for Adults with Disabilities". In Ch. II Section 19, the Department also proposed to increase, the monthly limits for members' Section 19 services from \$4,200/month to \$4,603/month. The Maine State Legislature approved of these increases when it enacted the budget, P.L. 2015, Ch. 267 (702 - L.D. 109).

Section 19 services are governed by a Section 1915(c) waiver approved by the Centers for Medicare and Medicaid Services (CMS). Pursuant to 5 MRS §8054, the Department makes these reimbursement changes in Section 19 through emergency rule making. Pursuant to Part UU Sec. UU-1 of the budget, the Legislature provided that the Department need not demonstrate emergency findings in support of this emergency rulemaking.

In Ch. III Section 19, these emergency rule changes allow MaineCare to increase: (1) Attendant Care Services (Personal Care Services, Participant Directed Option), billing code S5125, from \$2.93 per quarter hour to \$3.21 per quarter hour; and (2) Personal Care Services (Agency PSS), billing code TI019 from \$3.75 per quarter hour to \$4.10 per quarter hour.

Because the Department is increasing reimbursement for services in Ch. III of Section 19, it also seeks to increase the monthly program cap for MaineCare members, so that they are not adversely affected by the reimbursement changes. As such, these emergency rule changes in Ch. II Section 19 increase the limitation in Sec. 19.06(A) from \$4,200 per member per month to \$4,603 per member per month.

Given that the budget was effective July 1, 2015, the Department seeks to make these changes retroactive to July 1, 2015. The Department has authority for the retroactive effective date under 22 MRS §42(8), because these changes increase reimbursement for providers, ensure that members have access to medically necessary covered services, and otherwise have no adverse impact on either MaineCare providers or members.

These emergency rule changes to Section 19 Ch. II and III shall be effective for ninety (90) days. To prevent lapse, after filing this emergency rulemaking, the Department shall propose these changes pursuant to 5 MRS §8052.

Fiscal impact of rule:

The Department expects that this rulemaking will cost an additional \$883,727.00 in state funding, annually.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42(8), 3173; P. L. 2015 Parts A & UU; Resolves 2015 ch. 34, *An Act To Implement the Recommendations of the Commission to Continue the Study of Long-term Care Facilities.*

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 67**, Nursing Facility Services

Filing number: **2015-225**

Effective date: Retroactive to July 1, 2015

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

This emergency rule change seeks to implement the following:

1. Increase the final prospective rate from 95.12 percent to 97.44 percent.
2. Include the cost of continuing education for direct care staff as a direct care cost component rather than a routine cost component.

These changes are being done in order to comply with P.L. 2015 ch. 267, Part A and Resolves 2015 ch. 34, *An Act To Implement the Recommendations of the Commission to Continue the Study of Long-term Care Facilities.* The Department has submitted a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS). If CMS approves, the final prospective rate increase and the cost of continuing education for direct care staff as a direct care cost component will be effective retroactive to July 1, 2015.

Basis statement:

The adoption of this emergency rule brings Maine into compliance with Public Law 2015 ch. 267, Part A, and Resolves 2015 ch. 34, *An Act to Implement the Recommendations of the Commission to Continue the Study of Long-term Care Facilities.* The rule increases the final prospective rate from 95.12 percent to 97.44 percent and includes the cost of continuing education for direct care staff as a direct care cost component rather than a routine cost component.

The Department has submitted a State Plan Amendment to the Center for Medicare and Medicaid Services (CMS). If CMS approves, the final prospective rate increase and the cost of continuing education for direct care staff as a direct care cost component will be effective retroactive to July 1, 2015.

The Department's adoption of this emergency rule makes the increase in the final prospective rate and the cost of continuing education for direct care staff as a direct care cost component effective retroactive to July 1, 2015, pursuant to 22 MRS §42(8). The Department has determined that immediate adoption of this rule is necessary. The Legislature authorized the Department to do emergency rule-making as part of P.L. 2015, Part UU.

This emergency rule adoption for Ch. III Section 67, "Nursing Facility Services", shall be effective for ninety (90) days pursuant to 5 MRS §8054(3). To prevent a lapse in the increased final prospective rate and the inclusion of cost of continuing education for direct care staff as a direct care cost component, following the expiration of the emergency period, the Department is concurrently engaging in the routine rulemaking process for this rule.

Fiscal impact of rule:

For Fiscal Year 2016, there will be a General Fund cost of \$9,522,360 and federal expenditures of \$15,850,303. For Fiscal Year 2017, there will be a General Fund cost of \$9,532,078 and federal expenditures of \$16,002,554.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; 22 MRS § 3174-WW; PL 2012 ch.542, §B-5

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 80**, Pharmacy Services

Filing number: **2015-230**

Effective date: November 29, 2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This rule-making seeks to delete the Wholesale Acquisition Cost (WAC) from the reimbursement rate options. Furthermore, in order to be consistent with state statute 22 MRS §3174-WW, the no co-payment requirement for smoking cessation products has been added to the pharmacy benefits retroactive to August 1, 2014, for members eighteen (18) years of age or older or who are pregnant. In addition, some terms have been replaced with nationally recognized language that is considered more respectful of the individual. The term ICF-MR (Intermediate Care Facility for Persons with Mental Retardation) has been changed to ICF-IID (Intermediate Care Facility for Individuals with Intellectual Disabilities).

Basis statement:

This adopted rule deletes the Wholesale Acquisition Cost (WAC) from the reimbursement rate options. While WAC was added to the rule, it was never implemented nor used. Furthermore, in order to be consistent with 22 MRS §3174- WW, the no co-payment requirement for tobacco cessation products has been added to the pharmacy benefits retroactive to August 1, 2014 per 22 MRS §42(8) for members eighteen (18) years of age or older or who are pregnant. CMS approved these changes December 9, 2014.

In addition, some terms have been replaced with nationally recognized language that is considered more respectful of the individual. The term ICF-MR (Intermediate Care Facility for Persons with Mental Retardation) has been changed to ICF-IID (Intermediate Care Facility for Individuals with Intellectual Disabilities).

The Department of Health and Human Services' primary source of information for this rule includes 22 MRS §3174- WW, *An Act to Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare* and P.L. 2012 ch.542, §B-5, *An Act To Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language*.

Fiscal impact of rule:

The addition of the provision for no copayment for tobacco cessation products to member benefits will increase the cost to MaineCare by \$6,021.37 in SFY 2016 and \$9,032.05 in SFY 2017.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 32**, Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders
Filing number: **2015-239**
Effective date: December 9, 2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department repeals Ch. II Section 32 as no members have ever received services under this Section. The Department originally promulgated the rule after receiving approval from the Centers for Medicare and Medicaid Services (CMS) to operate a Section 1915(c), “Home and Community-Based Services waiver for Children with Intellectual Disabilities and/or Pervasive Developmental Disorders”. The waiver has since expired and, through CMS guidance, the Department determined not to renew the waiver. Children who would have been eligible to receive Section 32 services already receive and will continue to receive these services through other sections of the Medicaid State Plan, through the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services, and through state-funded programs at the Office of Child and Family Services.

Basis statement:

This rule adoption shall repeal Ch. II Section 32, “Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders”, which, since its July 1, 2011, implementation has existed without any member enrollment. No members have ever received services under Section 32. The Department originally promulgated the rule after receiving approval from the Centers for Medicare and Medicaid Services (CMS) to operate a Section 1915(c), “Home and Community-Based Services waiver for Children with Intellectual Disabilities and/or Pervasive Developmental Disorders”. The waiver has since expired and, through CMS guidance, the Department determined not to renew the waiver as all waiver services are currently being offered to this population elsewhere. With the expired waiver, the Department is no longer authorized to operate this program.

No members will be affected by the repeal of Ch. II Section 32. Children who would have been eligible for these waiver services already receive and will continue to receive these services through other sections of the Medicaid State Plan, through the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services, and through state-funded programs at the Office of Child and Family Services.

The Department is concurrently proposing to repeal Ch. III Section 32, on the same basis. This rule, Ch. II Section 32, is a routine technical rule. Ch. III Section 32 is a major substantive rule and requires authorization from the Legislature.

Fiscal impact of rule:

There will be no fiscal impact as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; P.L. 2015 ch. 267, Part A

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 45**, Hospital Services

Filing number: **2015-255**

Effective date: December 31, 2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Pursuant to the State's biennial budget, this rule-making reduces reimbursement for non-emergent use of the Emergency Department ("ED"). This reimbursement reduction applies to in-state Acute Care Non-Critical Access Hospitals only. The rule change reduces reimbursement of non-emergency use of the ED to the rate of a comparable visit delivered in a private physician office for a non-facility based provider.

Basis statement:

Pursuant to the State's biennial budget, P. L. 2015 ch. 267, Part A, Section A-32, the Department of Health and Human Services (the "Department") is reducing the reimbursement rate for non-emergent use of the emergency department ("ED") for in-state Acute Care Non-Critical Access Hospitals only.

In an effort to reduce the inappropriate and costly use of ED services this rule adoption reduces reimbursement of non-emergency use of the ED to the rate of a comparable physician's office visit. Specifically, the hospital will be paid the outpatient physician's professional evaluation and management service fee schedule rate. This will be determined by using the current physician's payment rate listed in the MaineCare Fee Schedule associated with the ED CPT code reported on the UB04 claim. Non-emergent use of the ED will be identified by the primary diagnosis, as indicated by the ICD-10 codes in *MaineCare Benefits Manual*, Ch. III Section 45, "Hospital Services", Appendix B.

To implement these changes, the Department published a notice of change in reimbursement methodology on September 14, 2015, pursuant to 42 CFR §447.205. The Department also submitted a State Plan Amendment to the Centers for Medicare and Medicaid Services ("CMS") for approval, with a requested effective date of October 1, 2015. The Department is currently awaiting a response from CMS.

In addition, the Department engaged in emergency rule-making to implement these changes effective October 1, 2015, for ninety days. 5 MRS §8054(3). That rule expires December 30, 2015. To prevent lapse, after filing the emergency rule-making, the Department proposed these routine technical rule-making changes pursuant to 5 MRS §8052. The Department now finally adopts these changes with an effective date of December 31, 2015.

Finally, this rule adoption is consistent with the rule proposal with the exception of the Department clarifying reimbursement language in 45.03-1(D) as a result of public comments, and removing language in 45.01-6, 45.07, and 45.12 where components of this rule were listed as contingent upon approval from the CMS because CMS approval has been granted.

Fiscal impact of rule:

This rule-making is estimated to result in a total cost savings in SFY 2016 of \$3,083,707, including \$1,157,315 State dollars and a total savings in SFY 2017 of \$4,111,609, including \$1,534,864 State dollars.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services – Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 3173
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 55**, Laboratory Services
Filing number: **2015-261**
Effective date: **January 2, 2016**
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

This rule was adopted to reflect current industry standards, and to ensure compliance with federal requirements for Laboratory Services, pursuant to 42 CFR §§ 440.30 and 447.201. The Department has adopted changes to this rule in order to align the language in Section 55 with the language of the Department's State Plan Amendment (SPA). In particular, the adopted changes increase the reimbursement rate from fifty-three percent (53%) of the lowest level in the current Medicare fee schedule for Maine in effect at that time, to seventy percent (70%) of the 2009 CMS rate or seventy percent (70%) of the rate in the year CMS assigns a rate for that code. The Department will seek approval from CMS for an amendment to its SPA to reflect that the provider's usual and customary charge is one of the several benchmarks utilized by the Department to determine reimbursement for laboratory services.

In addition, the Department has updated several provisions, including Sections 55.04-1, 55.04-2, 55.07, and 55.09, to add an updated reference to the current rates in the Maine HealthPAS Portal Provider Fee Schedule and to remove outdated references such as Section 90, Ch. III, "Physician Services". The Department also updated 55.02 to reflect current eligibility provisions to be consistent with other policies and current practice. It additionally updated the language in various other provisions, including Sections 55.05-3, 55.05-6, and 55.08-2, to make them consistent with current terminology. It further eliminates language referencing the diagnosis code "EMR" in Section 55.09 to align with current Medicaid billing practices. Finally, the Department removed Section 55.08-3 (Copayment Disputes), given that those requirements are set forth in Ch. I Section 1 of the *MaineCare Benefits Manual*.

Fiscal impact of rule:

The Department anticipates that this rule-making will save approximately: \$802,166.26 in SFY 16 and \$1,063,855.29 in SFY 17 in State match.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention, Division of Environmental Health, Drinking Water Program – Wastewater Unit**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS ch. 1683 §8704 sub-§4, and §8708

Chapter number/title: **Ch. 241**, Subsurface Wastewater Disposal Rules

Filing number: **2015-138**

Effective date: 8/3/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This rule amendment adds clarifying language to the general submission requirements; updates references, data element names and types; and corrects data element mappings, in conformance to current national and industry standards.

Basis statement:

These rules provide minimum State design criteria for subsurface wastewater disposal, to assure environmental sanitation and safety. These rules are intended to complement municipal planning, zoning, and land use control.

Changes include the correction of errors and omissions from previous rule changes, adding both a definition and design standards for in-law apartments (to provide clarity for subsurface wastewater disposal system designers, property owners and local officials), and adding a new section which combines, organizes and clarifies requirements when working in the Shoreland Zone or adjacent to protected natural resources.

Previous versions of the rules did not include standards for in-law apartments, resulting in confusion for designers and uncertainty for property owners. Inclusion of standards for in-law apartments simplifies the design process and allows property owners to easily understand the requirements for subsurface wastewater disposal when an in-law apartment is considered. In many instances, in-law apartments, as defined, will be allowed without expansion of the existing subsurface wastewater disposal system.

The regulated community has asked for clear guidance regarding work adjacent to, or in, protected natural resources. Previous versions of the rules included references and standards for disposal systems located in the Shoreland Zone or adjacent to protected natural resources in several different sections. The new section that compiles and organizes these references and standards will greatly simplify the design of disposal systems in these locations and allow property owners a greater understanding of the regulatory requirements for protecting them. These standards and requirements are not new. Instead, they are the result of existing laws and regulations protecting natural resources, including Mandatory Shoreland Zoning and the *Natural Resources Protection Act*. The section has been reviewed by staff at the Maine Department of Environmental Protection for accuracy and completeness. This new section will allow designers and property owners to remain in compliance with relevant Maine environmental protection laws and regulations simply by adhering to the standards found in these rules.

Fiscal impact:

There is no fiscal impact on state municipalities, counties or businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §42(1); 22 MRS ch. 250; 5 MRS ch. 501
Chapter number/title: **Ch. 258**, Rules for the Control of Notifiable Diseases and Conditions
Filing number: **2015-166**
Effective date: 9/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department proposes updates to the Rules for the Control of Notifiable Diseases and Conditions to better align with new and emerging diseases and more efficient methods of reporting being adopted nationally. The Department is proposing updates to the notifiable diseases and conditions list to better reflect diseases that are most important to prevent and control to protect public health in Maine.

Basis statement:

The Rules for the Control of Notifiable Diseases and Conditions were first drafted in 1976 by the Department of Health and Human Services. Since that time, they have been amended several times to reflect changes in notifiable diseases and the reporting of diseases. The Notifiable Diseases Workgroup, consisting of staff from the Infectious Disease Epidemiology Program and Medical Epidemiology, has worked since early 2012 to determine what revisions should be made. Experts from multiple divisions within Maine CDC have been consulted during this process regarding these rule revisions. The decisions to make changes to the list of notifiable diseases were made based on many factors, including, but not limited to, which diseases are nationally reportable, incidence of the disease in Maine, severity and morbidity of the disease, and required public health disease interventions.

The adopted rules add diseases, subtract diseases, and clarify the diseases on the Notifiable Diseases and Conditions List. In order to adequately protect the public from these emerging threats, updates are necessary for sufficient prevention, detection, and control of infectious diseases that pose health risks to the public. In order to facilitate better responses to emerging public health threats, the updated rules authorize the director of the Maine CDC to advise through Health Alerts the public health need for the temporary reporting of any disease or condition as if listed on the Notifiable Diseases list. Maine CDC's ability to obtain temporary reporting of diseases is intended to facilitate the study and control of any apparent outbreak or unusual occurrence of communicable disease not specifically listed in the Notifiable Diseases list. This will aid Maine CDC infectious disease epidemiologists in their efforts to decrease morbidity and mortality due to infectious diseases in Maine people.

The adopted rules add requirements for electronic laboratory reporting of notifiable diseases and the reporting of syndromic surveillance data from emergency departments throughout Maine. In regard to syndromic surveillance, most hospital emergency departments already follow these requirements. The adopted rules clarify the state's position on these advanced and efficient methods of surveillance and detection of infectious disease in the state.

The adopted rules update the definition and reporting requirements of non-compliant persons and public health threats. The adopted rules clarify several other definitions used in the rule and clarify the reporting requirements for disease reporting.

Fiscal impact:

There is no fiscal impact to DHHS. Maine CDC already has the ability to intake and process electronic laboratory reports and emergency department visit data from additional hospitals and laboratories.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3104; 7 CFR §§ 274.6(b) *et seq.*; 7 CFR §271.2(6); 7 CFR §274.2(f)
Chapter number/title: **Ch. 301**, Food Supplement Program, **Rule #184A:** Trafficking Controls and EBT Card Replacements
Filing number: **2015-072**
Effective date: 4/20/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement.)

Basis statement:

This rule-making codifies provisions in the *Food and Nutrition Act of 2008* that improve Program Integrity. It is expected to enhance the program's ability to serve those who are truly in need, and help to ensure that SNAP benefits are used as intended. Specifically, this rule implements the following:

1. Federal regulation 7 CFR 271.2(6), which expands the definition of Trafficking to include the attempt to buy or sell Food Supplement benefits in cases where an individual makes an offer to sell Food Supplement benefits and/or EBT card.
2. Federal regulation 7 CFR 274.6(b), which requires the State agency to place replacement EBT cards "in the mail within two business days following notice by the household to the State agency that the card has been lost, stolen or damaged."
3. Federal regulation 7 CFR 274.6(b)(5), which allows the State agency to deny a request for a replacement card until contact is made by the household with the State agency, if the requests for replacement cards are determined to be excessive. Excessive is defined as not less than four cards requested within 12 months prior to the request.
4. The fee structure for EBT card replacement is being changed, for clarification, to reflect Federal regulation 7 CFR 274.6(b)(3), which states, "the fee may not exceed the cost to replace the card."
5. There are also adjustments to Federal regulation citations and minor text adjustments for clarification.

Fiscal impact:

All costs associated with monitoring the replacement of EBT cards has been absorbed using existing resources.

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Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3104, 7 CFR 273.18
Chapter number/title: **Ch. 301**, Food Supplement Program, **Rule #190A:** Overpayment Compromise (FS-777-3 pages 1 – 5)
Filing number: **2015-144**
Effective date: 8/10/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Federal regulation 7 CFR 273.18, "Claims against household" requires state agencies to include language in the initial demand letter or notice of adverse action that state "that the State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim."

By providing a process for which a Food Supplement recipient with an agency-error overpayment may request a compromise for the overpayment, this rule brings the Food Supplement Program into compliance with this federal regulation.

Basis statement:

Federal regulation 7 CFR 273.18, "Claims against households," with regard to notification of an overpayment, states that "the initial demand letter or notice of adverse action must include language stating ... that the State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim."

The purpose of this rule change is to establish a process by which a Food Supplement recipient with an agency-error overpayment may request a compromise for the overpayment.

Fiscal impact:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3104, 5 MRS §8054
Chapter number/title: **Ch. 301**, Food Supplement Program, **Rule #193E**: Maine Food Supplement Certification Manual, **Rule #193E**: SUA Changes for FFY 2016 (FS-555-5 pages 1-11)
Filing number: **2015-176**
Effective date: 10/1/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

An emergency rule change is necessary to remain in compliance with Federal regulation 7 CFR 273.9(d), which requires annual review and adjustment to the SUA(s).

Basis statement:

This rule implements updated standard utility allowances (SUA), as approved by USDA Food and Nutrition Services (FNS), for FFY 2016, effective October 1, 2015. Federal regulation 7 CFR 273.9(d) requires that SUA(s) be reviewed and updated annually. The SUA values are based on changes in the Consumer Price Index (CPI) for fuel and utilities, from June 2014 to June 2015, subject to approval by FNS. CPI data was released on July 17, 2015. New SUA allowances were determined and submitted to FNS for approval on July 28, 2015. FNS provided approval of the SUA allowances on August 3, 2015.

The final approved values, which will cause benefits to decrease, were not provided in a timeframe that would allow the department to comply with the non-emergency rule-making process and implement by the required date of October 1, 2015. An emergency rule change is necessary to preclude federal penalties or loss of federal funds and thereby avoid threats to the public health, safety and general welfare.

Fiscal impact:

There are no implementation costs associated with this rule as the budget for IT already factors in changes associated with rules. Additionally, these values are applied to ACES, our case management system as is, with no additional coding required.

Food Supplement (SNAP) benefits are 100% federally funded; there also is a small state-funded program. Although there may be a small amount of savings realized from the decrease in benefits, for both federal and state programs, this savings will be mitigated by the annual COLA increases in deduction allowances for FFY 2016, which will be implemented in a separate rule, effective for October 1, 2015.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3104; 7 CFR 273.2(j); 7 CFR 273.8(e)(17)
Chapter number/title: **Ch. 301**, Food Supplement Program, **Rule #191A:**
Broad Based Categorical Eligibility – Shelters for Battered Persons
Filing number: **2015-251**
Effective date: 1/1/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule will enable Food Supplement rules concerning categorical eligibility to more closely align with Federal standards and to implement Federal guidance concerning men as residents of shelters for battered persons.

Basis statement:

This rule applies a \$5,000 asset limit to households that are eligible for Food Supplement benefits based on Broad-Based Categorical Eligibility (BBCE). The rule does not affect families with children. Assets such as primary vehicles and homes will not be counted as assets under the rule.

It also changes the reference from residents of shelters for battered women and children to shelters for battered persons, thereby enabling men who are victims of domestic violence to access Food Supplement benefits in these shelters.

The asset limit is allowable under federal law, and has been specifically approved by FNS. The Department expects it to bolster program integrity, as well as save federal and state tax dollars, by providing federal and state-funded benefits only to Mainers that actually need it.

This rule will not have an impact on municipalities or small businesses.

Fiscal impact:

Food Supplement benefits are 100% federally funded. For the small state-funded component, there is an estimated savings of \$198 per household.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 42(8), 3104
Chapter number/title: **Ch. 301**, Food Supplement Program, **Rule #193A:** SUA-COLA Changes for FFY 2016
Filing number: **2015-256**
Effective date: Varied effective dates
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule ensures compliance with federal regulations.

Federal regulation 7 CFR 273.9(d) requires that SUA(s) are reviewed and updated annually. The SUA values are based on changes in the Consumer Price Index (CPI) for fuel and utilities, from June 2014 to June 2015, subject to approval by FNS. Federal regulations 7 CFR 273.9(a) and (d) require that the COLA allowances be updated annually, effective October 1st.

Basis statement:

This rule makes permanent emergency rule #193E, *SUA Changes for FFY 2016*, implemented on October 1, 2015, which includes updated standard utility allowances (SUA), as approved by USDA Food and Nutrition Services (FNS), for FFY 2016. Federal regulation 7 CFR 273.9(d) requires that SUA(s) be reviewed and updated annually. The SUA values are based on changes in the Consumer Price Index (CPI) for fuel and utilities, from June 2014 to June 2015, subject to approval by FNS. The SUA values for heating/cooling, non-heat utility and phone costs decreased by 2%, which caused Food Supplement benefits to decrease by a small amount.

This rule also implements the annual cost of living allowance (COLA) increases, retroactively back to October 1, 2015. COLA allowances include adjustments for income eligibility standards, standard deductions and the maximum shelter allowance, as determined by FNS.

Fiscal impact:

Food Supplement (SNAP) benefits are 100% federally funded; there also is a small state-funded program.

There are no implementation costs associated with this rule as the budget for IT already factors in changes associated with rules. Additionally, these values are applied to ACES, our case management system, as is, with no additional coding required.

Although there may be a small amount of savings realized from decreased benefits due to SUA Decreases for both federal and state programs, this savings will be mitigated by the annual increased COLA values.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: PL 2011 ch. 380 §A-33 page 344; 22 MRS §3769-A, §3762 sub-§20
Chapter number/title: **Ch. 331**, Maine Public Assistance Manual (TANF), **Rule 104A:**
Ch. I, Eligibility Process, Non-Payment Situations (pages 14, 15, 16)
(Felony Drug Convictions)
Filing number: **2015-004**
Effective date: 1/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The adopted rule will implement a provision of the State FY2012 and FY2013 Biennial Budget that allows the Department to deny TANF cash assistance based on a positive drug test to an individual who has been convicted of a drug-related felony, after August 1, 1996, as described in Section 115 of PRWORA, unless the individual enrolls in a substance abuse treatment program appropriate to the type of illegal drug being used by the individual.

Basis statement:

It is the objective of the Department of Health and Human Services, in administering its Temporary Assistance to Needy Families ("TANF") program, to make maximum use of its limited resources by attempting to insure, so far as reasonably possible, that all funds disbursed through the program are used for the benefit of dependent children, and are not diverted to inappropriate uses. Additionally, the avoidance of drug dependency is an important step in fostering solid, functional families in which children can be appropriately nurtured and adults can take positive steps toward retraining, education, and/or employment which will enable them to prosper without the need for governmental assistance. This is particularly important with respect to a program such as TANF that has time limits for receipt of benefits. Accordingly, the Department is adopting this rule in an effort to identify TANF recipients who may have drug dependency issues in order to provide them with access to treatment and rehabilitation options that will enable them to move away from such dependency.

This rule will implement a provision of the State FY2012 and FY2013 Biennial Budget, codified at 22 MRS §3762(20), that requires the Department to deny TANF cash assistance based on a positive drug test to an individual who has been convicted of certain serious drug-related offenses (as described within the text of the Rule), unless the individual completes a substance abuse treatment program appropriate to the type of controlled substance for which that individual has tested positive.

As contemplated by the statute, persons who have been convicted of the specified offenses within twenty years of the inquiry are potentially eligible to be tested. The Department has made some changes to the final rule, partly in response to public comments, to more fairly and appropriately identify individuals whom it would be appropriate to test. In selecting persons to screen for potential abuse, the Department recognizes that more recent convictions provide a greater basis for concern of ongoing substance abuse than those which occurred in the more distant past, and will accordingly focus on recipients with convictions within the preceding ten years. All persons within the twenty-year statutory scope of 22 MRS §3762 (20)(A), however, may at certain times to be determined by Department policy, be required to complete a Substance Abuse Subtle Screening Inventory ("SASSI") to determine whether there exists a reasonable basis for individualized suspicion of current drug abuse. This Inventory is a simple, brief, easily completed questionnaire with objective scoring easily

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completed by the examiner. It has been peer-reviewed and empirically determined to be approximately 94% accurate in identifying the existence of (or confirming the absence of) a substance dependence disorder. This accuracy has been confirmed not to be significantly affected by gender, age, socioeconomic status, ethnicity, occupational or marital status, educational level, drug of choice, or general level of functioning. The use of SASSI (or equivalent screening) has been approved by legislation in various other jurisdictions, including Arizona, Mississippi, Missouri, North Carolina, Oklahoma, Tennessee, and Utah. Use of the SASSI obviates the objection (made in other jurisdictions and in public comment) to testing undertaken without individualized suspicion of drug use. The use of the inventory itself is non-testimonial, non-invasive and does not constitute a search, and thus raises no issues of constitutional concern. Use of the SASSI ensures that no search will be undertaken without scientifically verifiable individualized suspicion.

An individual whose SASSI score indicates a probable substance abuse disorder will be required to submit to a urinalysis or other appropriate drug test in order to continue to receive TANF cash benefits. If the individual tests positive for a controlled substance, and cannot demonstrate a legitimate medical basis (such as a legal prescription) for doing so the Department may terminate the individual's TANF assistance unless the individual agrees to enroll, participate in, and complete a substance abuse treatment program appropriate to the type of controlled substance for which the individual tested positive. The individual is entitled to an Administrative Hearing and, where requested, a second test before the termination of benefits.

If a caretaker relative is disqualified from the TANF eligibility, and other eligibility unit members remain eligible, a protective payee must be assigned.

The Department does not expect implementation of the rule to result in a fiscal impact on communities inasmuch as general assistance is not permitted if an applicant is disqualified from TANF for violation of the program's policies.

Fiscal impact of rule:

The fiscal impact adopted was a General Fund savings of \$50,000.

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Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3173
Chapter number/title: **Ch. 332**, MaineCare Eligibility Manual, **Rule #276A** - Cost of Care: **Part 12**, Residential Care: Section 1, Living Arrangements; Section 4.3.1, Determining the Cost of Care for an Individual; Section 4.3.2, Determining Cost of Care for a Couple; Section 4.3.3, Determining Cost of Care for an Individual or Couple Open on SSI
Filing number: **2015-016**
Effective date: 2/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule clarifies and corrects the procedure for calculating cost of care for individuals residing in living arrangements defined in *MaineCare Eligibility Manual*, Part 12 Residential Care.

Basis statement:

For each individual receiving services in certain living arrangements, as set forth in the rule, an assessment or "cost of care" is determined. The cost of care is the monthly amount the individual is expected to contribute toward the cost of his /her care at the facility.

The existing rule combined the explanation for determining cost of care for individuals and couples who only receive an SSI benefit with the explanation for determining a cost of care for individuals and couples who receive an SSI benefit along with other sources of income. This resulted in confusion and cost of care determinations that were sometimes inaccurate (e.g., a federal disregard of \$20 could have been incorrectly given to persons who only received an SSI benefit).

Additionally, the existing rule also sometimes inaccurately allowed an earned income disregard to be used in cost of care determinations. It was never the Department's intention to use the earned income disregard to determine cost of care; the earned income disregard should only be used to determine eligibility for coverage. The adopted rule, which is being made as a result of findings from a recent audit of MaineCare eligibility determinations, provides needed clarity by deleting the inaccurate instruction to subtract the earned income disregard from gross monthly income in order to determine the cost of care. This clarification should help prevent future errors in the determination of cost of care.

The adopted rule:

- clarifies the instructions for determining cost of care for individuals and couples who only receive an SSI benefit;
- provides separate instructions for determining cost of care for individuals and couples who receive an SSI benefit along with another source of income; and
- corrects the explanation for determining cost of care for individuals and couples who do not receive an SSI benefit.

Fiscal impact:

Individuals who are receiving the Federal Disregard when they are not eligible will lose the \$20 allowance. Implementing this rule will result in estimated annual savings to the State's General Fund of \$83,988 per fiscal year.

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Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 42(8), 3173, 3174
Chapter number/title: **Ch. 332**, MaineCare Eligibility Manual, **Rule #277A** - Brain Injury Waiver: **Part 6**, Supplemental Security Income; **Part 13**, Home and Community-Based Waiver
Filing number: **2015-041**
Effective date: Retroactive to 7/1/2014
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To create a new Home and Community-Based Services Waiver eligibility group for Adults with Brain Injury that corresponds with a new Section 1915(c), “Home and Community Based Waiver Benefit for Adults with Brain Injury”, that the Centers for Medicare and Medicaid Services (CMS) approved with an effective date of July 1, 2014. This rule also being removes the Home and Community Benefits for the Physically Disabled Waiver eligibility group and to ensure that the eligibility budgeting process for all Home and Community-Based Waiver programs correspond with the OMS rule changes to comply with Resolve 2011 ch. 71, which blends services from Section 19, “Home and Community Benefits for the Elderly and for Adults with Disabilities” and Section 22, “Home and Community Benefits for the Physically Disabled”. These changes are subject to CMS approval; a waiver amendment was submitted March 14, 2014.

Basis statement:

The Centers for Medicare and Medicaid Services (CMS) approved a new Section 1915(c), “Home and Community Based Waiver for Adults with Brain Injury”. The Waiver was approved for a 5-year period with an effective date of July 1, 2014.

The Department is adding this new waiver group, “Home and Community Based Waiver for Adults with Brain Injury (ABI)”, to provide supports necessary to assist individuals with ABI to live in the community rather than institutional settings. The Department is also merging the waivers for Section 19 (“Home and Community Benefits for the Elderly and for Adults with Disabilities”) with Section 22 (“Home and Community Benefits for the Physically Disabled Waiver”).

The Office for Family Independence has prepared MaineCare Rule 277A to:

- set forth the financial eligibility rules for the ABI new waiver once it is implemented;
- remove the Home and Community Benefits for the Physically Disabled Waiver eligibility group; and
- change the financial eligibility budgeting process to ensure that all Home and Community-Based Services Waiver programs allow a Personal Needs Allowance equal to 200% of the Federal Poverty Level.

Fiscal impact:

Eligibility criteria for these waiver programs are governed by this rule together with the Office of MaineCare Services (OMS) rules in applicable sections of the *MaineCare Benefits Manual*. There is no anticipated cost to the Department associated with this particular rule-making.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3173; 42 CFR 435.1110
Chapter number/title: **Ch. 332**, MaineCare Eligibility Manual, **Rule #280A:** Part 18, Presumptive Eligibility Determined by Hospitals
Filing number: **2015-204**
Effective date: 11/2/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Implementation of a requirement in the Affordable Care Act (42 C.F.R. 435.1110)

Basis statement:

This rule is issued in accordance with requirements listed in 42 CFR 435.1110. The rule allows a qualified hospital defined as a hospital that: is authorized as a MaineCare provider, has received approved training on presumptive eligibility determinations from MaineCare, and has not been disqualified from making presumptive eligibility determinations by MaineCare for failing to make such determinations consistent with State policies and procedures to determine Maine Medicaid eligibility presumptively for the following eligibility groups:

- Pregnant women;
- Infants and children under age 19;
- Parents and other caretaker relatives;
- Former foster care children (i.e., individuals up to the age of 26 who were enrolled in MaineCare at the time they "aged out" of foster care); and
- Certain individuals needing treatment for breast or cervical cancer.

The presumptive eligibility period will begin on the date the determination is made and will end on the earlier of the following dates:

- The date the eligibility determination for regular Medicaid coverage is made if an application for Medicaid is filed by the last day of the month following the month in which the presumptive determination was made; or
- The last day of the month following the month in which the presumptive determination was made if no application for Medicaid is filed by that date.

Periods of eligibility will be limited to no more than one period within twenty-four consecutive months, starting with the effective date of the initial presumptive eligibility period.

All applicants for a presumptive eligibility determination will be required to sign a separate application form for presumptive eligibility created by MaineCare and approved by the Centers for Medicare and Medicaid.

Qualified hospitals will base presumptive eligibility determinations on the following factors:

- The individual's categorical or non-financial eligibility for which the individual's presumptive eligibility is being determined (e.g., parent, child, pregnant woman);
- Income for the MaineCare household in which the individual applying for presumptive eligibility resides must not exceed the applicable income standard for the group for which the individual's presumptive eligibility is being determined (e.g., parent, child, pregnant woman);
- State residency (i.e., the individual must be a resident of the State of Maine); and
- Citizenship.

If a qualified hospital fails on three occasions to submit a regular MaineCare application after making a presumptive eligibility determination and/or makes a presumptive eligibility

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determination for someone who is ultimately found ineligible for coverage based on a full eligibility determination in response to receipt of a regular MaineCare application, the hospital will lose the authorization to perform subsequent presumptive eligibility determinations.

On January 13, 2015, the Centers for Medicare and Medicaid (CMS) approved a State Plan Amendment (SPA) that describes the State of Maine's policies related to hospital presumptive eligibility.

Fiscal impact:

SFY 16: State funds \$562,397, Federal funds \$943,361, All funds \$1,505,758

SFY 17: State funds \$2,119,249, Federal funds \$3,557,828, All funds \$5,677,077

The quality standards in the proposed rule are intended to minimize additional financial consequences that could result from incorrect eligibility determinations.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42, 42(8), 3173, 3174 *et seq.* 42 VSC §1396a;
20 CFR §§ 416.2095, 416.2096
Chapter number/title: **Ch. 332**, MaineCare Eligibility Manual, **Rule #279A:** MaineCare Eligibility Manual, **Rule #279A: Charts 3, 4** - Updated Federal Poverty Levels, Cost of Living Adjustments, and Spousal Impoverishment Standards
Filing number: **2015-252**
Effective date: Varied effective dates
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The State of Maine administers the MaineCare program pursuant to a State Plan, which requires that the State rules reflect prevailing federal standards and arithmetical values.

Basis statement:

The Department is mandated to incorporate the following changes, per federal law. The Department expects that the changes will positively affect beneficiaries, because the majority of the changes will either increase the income limits of all MaineCare coverage groups and State Funded Assistance Programs, or allow a nursing facility resident's community spouse to have more monthly income to pay for basic expenses, such as food, housing, and heat. Where a limited number of recipients will experience a slight adverse effect due to retroactive changes to the Spousal Living Allowance, the effect will be obviated by direct reimbursement.

This rule makes certain retroactive changes with effective dates of July 1, 2014, January 1, 2015, and also makes changes with an effective date of July 1, 2015. Specifically:

- This rule updates the *MaineCare Eligibility Manual* with the Federal Poverty Level (FPL) amounts that were determined by the U.S. Department of Health and Human Services and published in the Federal Register on January 22, 2015. This change will be retroactive to January 1, 2015.
- This rule applies the SSI Cost of Living Allowance (COLA) for 2015 as required by federal law. The SSI COLA increase of 1.7% increases the Categorically Needy Nursing Care Status Income Limits to \$2,199.00, and raises the SSI Countable Income Limit and Maximum Benefit to \$733.00. The income limit for Adult Family Care Homes increases to \$4,512. The maximum spousal allowance for Home and Community Based Waivers increases to \$733. Also, the amount of protected assets for a community spouse of a nursing home applicant increases to \$119,220, and the maximum monthly income to a community spouse of a nursing home resident increases to \$2,981. These changes will be retroactive to January 1, 2015.
- This rule also changes the minimum monthly income standard to \$1,967 and the monthly excess shelter standard to \$590. Both of these changes will be retroactive to July 1, 2014, and will be effective through June 30, 2015. Thereafter, effective July 1, 2015, those standards will be increased to \$1,991 and \$597, respectively.

Fiscal impact:

There will be a fiscal impact due to increased eligibility for some recipients, however, the amount cannot be determined.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 254-D, 3173
Chapter number/title: **Ch. 332**, MaineCare Eligibility Manual, **Rule #275A: Part 2 Section 13**, Eligibility Periods / Reviews
Filing number: **2015-257**
Effective date: December 30, 2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule change adds a liquid asset test that is consistent with the Medicare Savings Program (MSP), changes the review period from 24 to 12 months, and requires that financial changes be reported within 10 days. This rule ensures consistent asset testing and early detection of changes in members' financial circumstances.

Basis statement:

The reference to DEL having a 24 month eligibility period in the *MaineCare Eligibility Manual*, Part 2 Section 13, "Eligibility Periods / Reviews", has been removed. This change is being made in order to stay consistent with the eligibility period and review requirements of the Medicare Savings Program (MSP) and to ensure the Department receives timely notice of changes in members' financial circumstances that could impact eligibility. This rule change is being made under the authority provided to the Department by 22 MRS §§ 42(1), 254-D, 3173.

In a single rule filing, the Department initially proposed changes to two separate and distinct state regulations, 10-144 CMR ch. 333 (the DEL rule) and 10-144 CMR ch. 332 (the *MaineCare Eligibility Manual*). In order to ensure at the time of adoption appropriate separation of the changes made to the two regulations, separate MAPA documents have been created for each regulation.

Fiscal impact:

It is anticipated that the state will save \$709,310 in State Fiscal Year (SFY) 2016 (\$30,883 from the General Fund and \$678,427 from the Fund for a Healthy Maine) and \$851,173 in SFY 2017 (\$37,060 in General Fund dollars and \$814,113 from the Fund for a Healthy Maine).

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 5 MRS §8054; PL 2015 Ch. 267, Parts TT, UU; 22 MRS §§ 42(1), 254-D, 3173
Chapter number/title: **Ch. 333**, Low-Cost Drugs for the Elderly and Disabled (DEL)
Filing number: **2015-182**
Effective date: October 1, 2014
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule implements a provision from the State FY2016 and FY2017 Biennial Budget (P.L. 2015 Ch. 267). Adoption of this emergency rule without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare is pursuant to Part UU of the State FY2016 and FY2017 Biennial Budget (P.L. 2015 Ch. 267).

In this rule-making, the Department made changes to Section 2.1 and Section 3 of the Low Cost Drugs for the Elderly and Disabled Eligibility regulations in order to comply with Part TT of P.L. 2015, Ch. 267 and 22 MRS §254-D(4)(B)(5).

Effective October 1, 2015, these emergency rules will add to the requirements of eligibility for the DEL Program that an individual must not have more than \$50,000 individually or more than \$75,000 per couple in liquid assets. The definition of “liquid assets” can be found in the *MaineCare Eligibility Manual*, Part 16.5.

Basis statement:

This emergency rule will implement provisions from Part TT of the State FY2016 and FY2017 Biennial Budget (P.L. 2015 Ch. 267) that establishes a limitation on the amount of liquid assets an individual may possess in order to receive benefits from the Low Cost Drugs for the Elderly and Disabled (DEL) Program. Pursuant to MRS Title 5 §8054, the Department of Health and Human Services is authorized to adopt emergency rules as necessary to implement provisions of P.L. 2015 Ch. 267 without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

Effective October 1, 2015, these emergency rules will add to the requirements of eligibility for the DEL Program that an individual must not have more than \$50,000 individually or more than \$75,000 per couple in liquid assets. The definition of “liquid assets” can be found in the *MaineCare Eligibility Manual*, Part 16.5.

In this rule-making, the Department is making changes to the following DEL Eligibility regulations in order to comport with the Biennial Budget requirements: Section 2.1 and Section 3.

Fiscal impact of rule:

It is anticipated that the state will save \$709,310 in State Fiscal Year (SFY) 2016 (\$30,883 from the General Fund and \$678,427 from the Fund for a Healthy Maine) and \$851,173 in SFY 2017 (\$37,060 in General Fund dollars and \$814,113 from the Fund for a Healthy Maine).

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 254-D, 3173; PL 2015 ch. 267, Parts TT, UU
Chapter number/title: **Ch. 333**, Low-Cost Drugs for the Elderly and Disabled (DEL)
Filing number: **2015-258**
Effective date: December 30, 2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule change adds a liquid asset test that is consistent with the Medicare Savings Program (MSP), changes the review period from 24 to 12 months, and requires that financial changes be reported within 10 days. This rule ensures consistent asset testing and early detection of changes in members' financial circumstances.

Basis statement / summary:

The Maine Drugs for the Elderly Benefit, also referred to as the Maine Low Cost Drugs for the Elderly or Disabled (DEL) Program, is authorized by, and these regulations are issued under, the authority of 22 MSRA §254-D. The responsibility for implementing this legislation is with the Department of Health and Human Services. This benefit uses state funds only, and is not a Medicaid program.

Fiscal impact of rule:

It is anticipated that the state will save \$709,310 in State Fiscal Year (SFY) 2016 (\$30,883 from the General Fund and \$678,427 from the Fund for a Healthy Maine) and \$851,173 in SFY 2017 (\$37,060 in General Fund dollars and \$814,113 from the Fund for a Healthy Maine).

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Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §3104; 7 CFR §273.7 & 7 U.S.C. 2015(d)(4)
Chapter number/title: **Ch. 609**, Food Supplement - Employment and Training (FSET) Program Rules, **Rule #3A** (*formerly* OFI ASPIRE/JET)
Filing number: **2015-042**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule updates the Food Supplement Employment and Training program for Federal Fiscal Year (FFY) 2015, contingent upon approval by the United States Department of Agriculture- Food and Nutrition Services.

DHHS Office for Family Independence (OFI) will partner with the Maine Department of Labor to expand Food Supplement Employment and Training (FSET) services for able bodied adults without dependents (ABAWDs). FSET services will be available in Augusta, Bangor, Lewiston and Portland. FSET will provide employment assistance, training on job search skills, support job search activities, and provide work related case management services. The FSET Competitive Skills Scholarship Program (FSET-CSSP) will also be established, which will assist some participants to get training through certificate and degree programs for approved high wage in-demand jobs.

The changes will make FSET participation mandatory for Food Supplement ABAWDs not meeting work requirements residing in counties (Androscoggin, Cumberland, Kennebec, and Penobscot) and within 30 miles of Career Center FSET locations (Augusta, Bangor, Lewiston and Portland). FSET participation will count towards up to half of an ABA WD's work

Basis statement:

This rule change updates the Food Supplement Employment and Training (FSET) program for Federal Fiscal Year (FFY) 2015, approved by the United States Department of Agriculture- Food and Nutrition Services.

DHHS Office for Family Independence (OFI) will partner with the Maine Department of Labor to expand FSET services for Able Bodied Adults Without Dependents (ABAWDs). FSET services will be available in Augusta, Bangor, Lewiston and Portland CareerCenters. FSET will provide employment assistance, training on job search skills, support job search activities, and provide work related case management services. Able Bodied Adults without Dependents who are subject to Food Supplement work requirements will be able to apply up to 9.75 hours per week of FSET job search activities toward their weekly 20 hour work requirement, and will receive up to \$50 per month assistance with transportation costs to attend FSET approved activities. The FSET Competitive Skills Scholarship Program (FSET-CSSP) will be established, which will support up to 75 participants in certificate and degree programs for approved high wage and in-demand jobs.

In the final rule, in response to concerns raised by commenters, the Department withdrew its proposal to make participation mandatory, and will maintain FSET participation as voluntary. The Department also made several other changes to clarify language throughout the rule, consistent with what was proposed. All of these changes are identified in the Department's Summary and Responses to Comments and List of Changes to Final Rule.

Finally, this rule amendment will change the title of 10-144 CMR ch. 609 from "ASPIRE/JET" to "Food Supplement Employment and Training (FSET) Program Rules." The Department made this change to more accurately reflect the targeted population and the source of program funding.

Fiscal impact:

The total estimated cost is \$485,000 in federal funds and a state cost of \$100,000. DHHS will collaborate with the Maine DOL to provide Employment and Training services. DOL will be paying up to \$50,000 towards travel, training, and support services for participants.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health & Human Services (DHHS), Maine Center for Disease Control and Prevention, **Division of Population Health - Children with Special Health Needs**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §1532

Chapter number/title: **Ch. 709**, Critical Congenital Heart Defects Screening

Filing number: **2015-146**

Effective date: 9/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To implement CCHD screening as required by 2013 PL 397 and to define the responsibilities of hospital administration and staff, physicians and other health care providers, midwives and other “principal birthing attendants,” and others, with regard to the screening of newborn infants for critical congenital heart defects which if left untreated could cause critical incidents or death. These rules address the designation of a contact person in each hospital, timing and method of CCHD screening, parental refusal of tests, types of records to be maintained, responsibilities for follow-up and reporting or data collection.

Basis statement:

These rules define responsibilities to assure that all infants born in Maine are screened for critical congenital heart defects (CCHD) (unless the infant’s parent(s) object on religious grounds) in time to allow for treatment to prevent critical incidents and death. These rules address the designation of a contact person in each hospital, timing and method of CCHD screening, parental refusal of tests, types of records to be maintained, responsibilities for follow-up and reporting or data collection.

Fiscal impact:

No adverse fiscal impact on municipalities, counties or small businesses

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health & Human Services, **Maine Center for Disease Control and Prevention**

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §42(1); 22-A MRS §205(2); 22 MRS §1242

Chapter number/title: **Ch. 720**, Rules Governing the Implementation of Expedited Partner Therapy

Filing number: **2015-205**

Effective date: 11/4/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Pursuant to 22 MRS ch. 251, sub-c. 3, art. 5 §1242, "An Act to Enable Expedited Partner Therapy", the statute requires the Maine Center for Disease Control and Prevention (Maine CDC) to adopt routine technical rules to implement statutory provisions governing the practice of expedited partner counseling and identifies the parameters of Expedited Partner Therapy. These parameters include the designation of sexually transmitted diseases appropriate for Expedited Partner Therapy, and the recommended protocol, materials, information and counseling required to implement Expedited Partner Therapy.

Basis statement:

In March 2010, the Maine State Legislature enacted 22 MRS §§ 1241-1242 (2010), which require the Department to adopt routine technical rules to implement Expedited Partner Therapy ("EPT"). EPT is a public health prevention and treatment strategy to reduce the burden of sexually transmitted diseases ("STDs") by prescribing, dispensing, furnishing, or otherwise providing prescription antibiotic drugs to the sexual partner(s) of persons clinically diagnosed with STDs. Pursuant to the statutes, this rule includes the designation of STDs appropriate for EPT, and the recommended protocol, materials, information and counseling required to implement EPT in Maine.

Maine's EPT rule is based on scientific evidence, the recommendations of the U.S. Centers for Disease Control and Prevention, and other nationally-recognized medical authorities. For example, during the Department's development of this rule, it reviewed EPT articles and reports from the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, and the American Medical Association. In addition, it researched EPT guidelines and regulations from states such as Washington, Illinois, Minnesota, California and New York. EPT has been approved for practice in 36 states as a method of controlling the spread of STDs. Based on this research, the Maine Center for Disease Control and Prevention has limited Expedited Partner Therapy to be used for the treatment and prevention of infection with chlamydia (*Chlamydia trachomatis*) and gonorrhea (*Neisseria gonorrhoeae*).

These rules establish the requirements for Expedited Partner Therapy, including guidelines, criteria for eligibility, counseling messages, materials, protocol, and related administrative policies. These rules are intended to complement other public health and clinical methods for preventing and treating sexually transmitted infections, reducing the burden of disease among the residents of Maine.

As a result of the review and advice of the Office of Attorney General, and pursuant to 5 MRS §8052(5)(B), the Department found that various changes were required for the final EPT rule to be adopted. Changes included removing and reorganizing sections to remove unnecessary sections, and to make the rules more clear, concise, and consistent

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with the statute. Certain technical changes were also made to correct typographical and grammatical errors.

Fiscal impact:

No adverse fiscal impact on small business, municipalities, and counties.

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Agency name: Department of Health and Human Services, **Office of Child and Family Services**
Umbrella-Unit: **10-148**
Statutory authority: 22 MRS §42
Chapter number/title: **Ch. 6**, Child Care Subsidy Program Rules
Filing number: **2015-074**
Effective date: 4/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule clarifies program definitions and program eligibility standards.

Basis statement:

The Department of Health and Human Services (DHHS) is designated as the lead agency with primary responsibilities for the planning and administration of child care subsidies funded with the Child Care Development Fund.

The *Child Care and Development Fund (CCDF) Block Grant Act of 1990* requires the Lead Agency to "administer, directly, or through other governmental or non-governmental agencies" the funds received. The regulations at 45 CFR 98.11 provide that, in addition to retaining "overall responsibilities" for the administration of the program, the Lead Agency must also (among other things) promulgate all rules and regulations governing the overall administration of the CCDF program.

The adopted rules implement the regulations at 45 CFR 98.11. The rules incorporate changes and current best practices in the operation of a child care subsidy program. The major amended provisions include clarification on 1.13 Educational Program, 1.19 Hobby, clarification on 1.20 Homeless Children, clarification on 1.22 In-Home Child Care Provider, clarification on 3.02 Ages of Children, eligibility for 4.08 Job Search, eligibility for 4.08 Medical Leave, eligibility determination for 4.07 One Parent with Disability, clarification on 6.00 Parent Fees, clarification on 9.05.4 Excused hours, clarification on 11.02.2 time frame to return a renewal agreement and clarification on 11.05.4 Good Standing. The rules also include various technical, non-substantive changes relating to section numbering, intra-Departmental agency name changes, spelling, and usage.

Fiscal impact:

This rule will not have a fiscal impact.

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Agency name: Department of Health and Human Services, **Office of Child and Family Services**
Umbrella-Unit: **10-148**
Statutory authority: 22 MRS §4010-C
Chapter number/title: **Ch. 577**, Alumni Transition Grant Program Rules
Filing number: **2015-145**
Effective date: 8/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

As a result of recent state legislation, these rules establish the Alumni Transition Grant Program (ATGP), which provides financial support and navigator services to youth, who were formerly in Maine's foster care system and who meet certain eligibility criteria, in order to support their post-secondary education. The ATGP also establishes an Advisory Committee.

Basis statement:

As a result of recent state legislation, these rules establish the Alumni Transition Grant Program (ATGP), which provides financial support and navigator services to youth, who were formerly in Maine's foster care system and who meet certain eligibility criteria, in order to support their post-secondary education. The ATGP also establishes an Advisory Committee.

ATGP Eligibility

An individual who aged out of Maine's foster care system at age 18, *and* who exited Maine's Voluntary Extended Care and Support (V9) Agreement under Title 22 MRS §4037-A at age 21, *and* who is enrolled in a post-secondary education program making satisfactory progress, *and* who has not yet attained his or her 27th birthday.

ATGP Level of Support

A maximum of 40 grants will be awarded at any one time on a first come, first served basis through an application process. The level of support provided to ATGP recipients will be equivalent to the current Voluntary Extended Care and Support (V9) Program.

Financial support will be provided to eligible individuals up to the completion of an undergraduate degree, and not to exceed 6 years for the completion of a 4-year Bachelor's Degree; 4 years for the completion of a 2-year Associate's Degree; or 4 years for the completion of an eligible training program.

ATGP Navigator Services

An ATGP Navigator will provide education support to ATGP recipients as coordinated with the individual and within the parameters of the ATGP.

ATGP Advisory Committee

An ATGP Advisory Committee is established comprised of various relevant stakeholders, appointed by the Director of the Office of Child and Family Services, to oversee ATGP implementation and outcomes; to advise the OCFS Director regarding program improvements, and to provide an annual report to the Maine's Legislative Health and Human Services Committee.

Fiscal impact:

The estimated fiscal impact assumes an annual grant cost of \$5,000 per child and initially 20 grants will be awarded in the first year, with an effective start date of January 1, 2015. There is an estimated annual general fund cost of \$200,000 beginning in State fiscal year (SFY) 2016.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of Substance Abuse and Mental Health Services**
Umbrella-Unit: **14-118**
Statutory authority: 22 MRS §7249, §7252
Chapter number/title: **Ch. 11**, Rules Governing the Controlled Substances Prescription Monitoring Program
Filing number: **2015-108**
Effective date: 7/11/2015
Type of rule: Major substantive
Emergency rule: No

Principal reason or purpose for rule:

The purpose for this change is to support more informed prescribing for all healthcare providers and will assist to improve detection of activity that may signal drug diversion and/or misuse.

Basis statement:

This major substantive rule change will replace a requirement to report to the Prescription Monitoring Program the filling of controlled substances within seven (7) days to not later than the close of business on the next business day of the controlled substance after it has been dispensed (both filled and delivered). The information required to be filed has been expanded to include the date the prescription was delivered (issued). By reducing the dispenser reporting timeframe, the rule change supports more informed prescribing for all healthcare providers and will improve detection of questionable activity that may signal drug diversion and/or misuse.

This change also aligns the rule with statutory definitions in 32 MRS §13702-A for dispensing and delivery. Reporting of the date the medication is delivered along with the date the prescription was filled will provide more accurate data to all PMP end users.

Fiscal impact of rule:

There will be an annual enhancement cost as quoted by Health Information Designs, the PMP vendor, of \$7,800 for the 24-hour reporting feature. The cost will be paid out of a federal grant specifically for PMP. This cost will not be passed on to the pharmacies/uploaders. Depending on the database used by pharmacies/uploaders for submitting dispensed controlled substances data, there may be a minimal cost associated with minor upgrades to the pharmacy uploader database system. There are no additional costs associated with activating an already existing field to accommodate the date the medication was delivered to the patient.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Health and Human Services, **Office of Aging and Disability Services**
Umbrella-Unit: **14-197**
Statutory authority: 34-B MRS §5604(3)
Chapter number/title: **Ch. 8**, Rule Describing Grievance Process for Persons with Intellectual Disabilities and Autism
Filing number: **2015-005**
Effective date: 1/14/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The Department is adopting changes to its existing Grievance Rule that will, as of January 14, 2015, extend the time frames for respondents to attempt to resolve grievances by, or on behalf of, persons eligible for Developmental Disability Services; limit the maintenance of services during the pendency of a grievance to appeals filed within specified timelines; align the definition of a correspondent to statute; and eliminate out-dated organizational references not reflective of Departmental and Office mergers occurring since publication of the existing rule.

These modest extensions in time frames will allow case managers and supervisors to more thoughtfully respond to, and attempt to resolve, grievances at the lowest possible level without premature engagement of the next level in the grievance process. The current definition of correspondent in the existing rule does not conform to the definition in statute. The titles of positions and the organizational structure referenced in the existing rule are out-of-date and do not reflect the post-consolidation structure of either the Department of Health and Human Services or the Office of Aging & Disability Services.

The grievance process is a flexible mechanism to allow persons eligible for Developmental Disability Services, and persons acting on their behalf, an opportunity to be heard regarding, and object to, any action or inaction by any individual or organization, public or private, providing services to a person eligible for Developmental Services. The amendments retain the existing rule's broad opportunity to be heard. The Department added a process to follow for the continuation of services during the pendency of a grievance, which services may continue in some instances, pursuant to the requirements set forth in the rule.

The amendments will have no economic impact on small businesses or municipalities.

Fiscal impact of rule:

No anticipated impact; potential for some minimal savings.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §13051
Chapter number/title: Ch. 13, Watercraft Regulations
Filing number: 2015-028
Effective date: 3/14/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In accordance with Title 12 MRS §13051 the Department, in conjunction with the Department of Marine Resources, is adopting rules under the *Federal Boating Safety Act*, as administered by the U.S. Coast Guard (USCG). A complete repeal and replace of the boating rules will make them applicable to today's boating standards and include consistent language from the *Code of Federal Regulations* (CFR) regarding the safe operation of boats.

Basis statement:

In accordance with Title 12 MRS §13051 the Department, in conjunction with the Department of Marine Resources, has adopted rules under the *Federal Boating Safety Act*, as administered by the U.S.C.G. A complete repeal and replace of the boating rules will make them applicable to today's boating standards and issues and include consistent language from the *Code of Federal Regulations* regarding the safe operation of boats.

This will be the first complete rewrite of Maine's boating rules since the 1980's. The Department is required to be consistent with USCG boating *Code of Federal Regulations* (CFR) as far as practical. Highlights of this rewrite include: update language relating to "class" of watercraft now referred to as lengths; navigational lights and sound making devices; PFD's defined as life jackets according to labels and no longer referenced by type; fire extinguishers, sound producing and other life saving devices; safe operation of a watercraft to include new rules related to stand up paddle boards, surf zones and children wearing life jackets while on board watercraft underway; towed water sports and include updated USCG photos depicting intent of the rule.

The Department received 4 written comments on the proposal (attached). One comment was in support of the proposal. One comment suggested some corrections with formatting and definitions within the proposal. The Assistant to the Commissioner and Lt. Adam Gormely of the Warden Service reviewed the comments that were received in a "track changes" format and incorporated some of the formatting suggestions. None of the changes were substantive in nature. Two of the comments were similar in nature pointing out a PFD requirement that had been in effect in previous law books as they related to guides carrying passengers for hire or utilizing watercraft that was not included in the proposal. These comments brought to our attention that 3 sections of the rule had been inadvertently omitted from the proposal regarding special mandatory PFD wear requirements. The Department amended the rule to address these comments and meet the requirements to be consistent with federal standards, and were inserted under section 13.04 C. 2., 3., and 4.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §12851
Chapter number/title: Ch. 24, Licensed Guides
Filing number: 2015-029
Effective date: 3/14/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department has amended current rules to make allowances for standup paddle sports in guide license requirements. This rule will create consistency when it comes to safety when a paddle boarder hires someone to guide them on the inland waters or on the ocean. Just as other recreational sports require a guide to be licensed when remuneration is received, standup paddle boarding will also have that requirement.

Basis statement:

Amendments to this rule were the result of discussions with the sea kayak guide group to address concerns they had with guiding stand-up paddles sports on the ocean. Traditionally, if you were going to guide stand-up paddle sports on the ocean you were required to have a recreational guides license. The sea kayak group felt in terms of safety that did not make sense. Their concerns were brought forward to the Advisory Board for the Licensing of Guides where it was discussed and the Board recommended that the sea kayak guides would be able to guide stand-up paddle sports on the ocean and a recreational guides license would enable someone to guide them on inland waters.

The definition of "Guide" was also updated to include the term "all-terrain vehicle." If you were taking a guided trip with an ATV and remuneration was received, you would be required to have a guide license as was the requirement with other recreational vehicles.

The proposal was amended to further include language suggested by the Guide Advisory Board to allow certain courses such as Wilderness First Responder to acceptable first-aid certification. The language was amended in Section 24.03 A.1. to include equivalent course approved by the Department.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §11701
Chapter number/title: Ch. 4, Hunting and Trapping: 4.06(1.B., 4, 5, 6), Wild Turkey
Filing number: 2015-061
Effective date: 4/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Wildlife Management Districts 1-6 will be open for the first time in the spring of 2015. The rule is a more conservative approach to a full open season by limiting the number of turkey hunters on the landscape through the split A/B season concept prior to 2007. In this system the birth year of each hunter determines when they could hunt in the season, therefore reducing the number of turkey hunters in the field at the same time. The rule also removes the turkey tagging fee reference as it is currently provided for in statute 12 MRS §12301-A and the reference was redundant.

Basis statement:

Wildlife Management Districts 1-6 will be open for the first time in the spring of 2015. Wild turkeys are relatively new to this area, and the number of sites where wild turkeys can be found in these districts is limited. This raised some concern with respect to hunter safety and land access. The rule is a more conservative approach to a full open season by limiting the number of turkey hunters on the landscape through the split A/B season concept that was used prior to 2007. In this system the birth year of each hunter determines when they can hunt in the season, therefore reducing the number of turkey hunters in the field at the same time. The season will remain as a five week season like the rest of the state but hunters born in an odd year will hunt the 1st and 3rd week of the season and hunters born in an even year will hunt the 2nd and 4th week of the season. Both even and odd birth years hunt the last week of the season.

This system alternates the following year, so that even birth years hunt the 1st and 3rd weeks and odd birth years hunt the 2nd and 4th weeks. Following a two year period using the A/B season for spring wild turkey hunting in WMD 1-6 an assessment will be completed for consideration of wild turkey hunting regulations in these districts.

The rule also removes the reference to turkey tagging fees as it is currently provided for in statute under 12 MRS §12301-A. Going forward, any changes the legislature may make to tagging fees will not require a rulemaking update to remain consistent. As registration tags are no longer provided with the purchase of a turkey permit (hunters make their own) that reference was also removed from the rule as well as the one bird per season reference under the "Landowner Privilege" section. Some WMDs allow the take of more than one turkey during the season.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §11551
Chapter number/title: Ch. 4, Hunting and Trapping: 4.05, Moose Hunting
Filing number: 2015-088
Effective date: 5/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is being adopted to establish the number of moose hunting permits to be issued for each Wildlife Management District for the 2015 season.

Basis statement:

This rule is being adopted to establish the number of moose hunting permits to be issued for each Wildlife Management District (WMD) for the 2015 season. The Department advertised a proposal on February 18, 2015 with a recommended total of 2,815 permits be issued in order to meet moose harvest objectives. This was a decrease in overall permits of 9% from 2014 with the majority of the reduction occurring in WMD 2. In WMD 9, the Department proposed a slight increase in permits as the population was estimated to be above goal. Adjustments to permit numbers in other WMDs were relatively minor.

During the comment period the Department received numerous written comments from the public. Comments were acknowledged and forwarded to the Commissioners Advisory Council and Department staff. In summary, 2 comments were received in favor of the proposed numbers; 13 comments were received expressing concerns over any increase in permit numbers, but not mentioning any specific districts; 3 comments were received for specific WMDs including 2, 3 and 9. 62 written comments were received opposed to the increase in permits for WMD 9, and an online "petition" was created by a guide in Greenville on "Change.org" to solicit comment to "Decrease the proposed 2015 Maine Moose hunting bull tags and suspend the proposed cow hunt for WMD 9" which received 2,675 supporters.

On the day of the comment period deadline, March 20, 2015, the Department received requests from more than 5 members of the public to hold a public hearing in Greenville to discuss the proposed permit numbers for WMD 9. A public hearing was scheduled for April 24, 2015 at the Greenville Consolidated School in Greenville and was advertised on April 1, 2015.

The Commissioner's Advisory Council met on March 27, 2015 and as the 2015 moose permit numbers were scheduled for a vote, the Commissioner briefed them on the request for a public hearing, and recommended the Council vote on the proposed numbers with WMD 9 being withdrawn until the public hearing process was complete. There were 8 Council members in attendance, 7 voting in favor of the recommendation and 1 opposed (Mr. Farrington).

The public hearing to discuss proposed permit allocations for WMD 9 was held on April 24, 2015 and approximately 100 people were in attendance. 3 people provided testimony in favor of the proposed permit numbers of 100 bulls and 50 antlerless; 22 people testified in opposition; and 3 testified neither for nor against (minutes attached). Written comments were also received prior to the comment period deadline of May 4, 2015, 2 supporting the increase in permit numbers and 5 opposed.

Based on the public comments and input from staff the Commissioner recommended not moving forward with the increase in permit numbers in WMD 9 and leaving the allocations as they were in 2014 at 75 bull permits. The Advisory Council gave their consent on May 6, 2015 to adopt the permit numbers as amended in WMD 9. The final count for permit allocations in all WMDs for 2015 were 2085 bull permits, 550 antlerless and 105 any-moose.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §10104
Chapter number/title: Ch. 4, Hunting and Trapping: 4.01(G)(2-A),(J).(K),
Furbearer Trapping Rules
Filing number: 2015-148
Effective date: 8/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In November 2014, the Department finalized its incidental take permit (ITP) with the US Fish and Wildlife Service (USFWS) regarding the unintentional take of Canada lynx through regulated trapping. Under this agreement a maximum of three lynx were allowed to be killed or permanently disabled over a period of 15 years. Within the first month of the 2014-2015 trapping season, two lynx were killed in legally set traps. In response, the Department implemented an emergency rule in December 2014, to prohibit setting killer-type traps (body-gripping traps) at or above ground level in WMDs with resident lynx. This rule expired after 90 days. Because only one additional lynx can be killed over the next 14 years, the Department is concerned that it may exceed the ITP agreement with the USFWS. Therefore, the Department has adopted additional rules regarding killer-type and foothold traps to minimize the take of a lynx in a legally set trap.

Basis statement:

In November 2014, the Department finalized its incidental take permit (ITP) with the US Fish and Wildlife Service (USFWS) regarding the unintentional take of Canada lynx through regulated trapping. Under this agreement a maximum of three lynx were allowed to be killed or permanently disabled over a period of 15 years. Within the first month of the 2014-2015 trapping season, two lynx were killed in legally set traps. In response, the Department implemented an emergency rule in December 2014, to prohibit setting killer-type traps (body-gripping traps) at or above ground level in WMDs with resident lynx. This rule expired after 90 days. Because only one additional lynx can be killed over the next 14 years, the Department is concerned that it may exceed the ITP agreement with the USFWS. Therefore, the Department, working closely with the Maine Trappers Association, proposed additional rules regarding killer-type and foothold traps to minimize the take of a lynx in a legally set trap.

The changes address four methods of trapping: 1) the use of killer-type traps, 2) the use of foothold traps, 3) the use of "Hancock" style beaver traps (also known as 'suitcase' traps), and 4) rat snap traps. In all Wildlife Management Districts killer-type traps with a jaw spread not to exceed 8 inches may be used on or above ground level if the trap is placed within a lynx exclusion device. Exclusion device dimensions and structure were clarified from the original proposal based on USFWS comments and staff input. Restrictions to foothold traps are statewide, and in WMDs 1-11, 14, 18 and 19 the use of drags will be prohibited. Also in these WMDs, foothold traps will be required to have a clear "catch circle" as defined. The use of Hancock traps will be limited to authorized Animal Damage Control (ADC) activities by licensed ADC agents. These changes will not likely affect the ability of ADC agents and other licensed trappers to capture beaver.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §11152
Chapter number/title: Ch. 4, Hunting and Trapping: 4.03, Deer Hunting
Filing number: 2015-149
Effective date: 8/16/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To establish antlerless deer permit allocations for each of the 29 Wildlife Management Districts (WMDs) for the 2015 deer hunting season. Any-deer permits are adjusted by MDIFW on an annual basis in response to deer population estimates and population goals in each WMD. The winter of 2014-15 was of above-average severity, in some parts of the state, which may have resulted in increased winter mortality rates for our over-wintering deer. For 2015, the Department is recommending a total of 28,770 permits be issued in order to meet our doe harvest objective of 3,274 animals. This is a decrease of 23% (8,415 permits) from 2014.

Basis statement:

The Department allocates any-deer permits by Wildlife Management Districts (WMDs) to limit the number of antlerless deer taken by hunters in each WMD. Allocations vary across the state, reflecting the different quality of deer habitat and potential to support and grow deer populations in each WMD.

The winter of 2014-15 was of above-average severity in some parts of the state, which may have resulted in increased winter mortality rates for our over-wintering deer.

For 2015, we recommended a total of 28,770 permits be issued in order to meet our doe harvest objective of 3,274 animals. This was a decrease of 23% (8,415 permits) from 2014. The issuance of these permits will provide a substantial doe harvest within WMDs 15-17, 20-26, and 29, which are our most productive WMDs. In addition, biological data and observations by regional staff suggest that deer in WMDs 3, 6, 14, and 18 had experienced population growth or were near social carrying capacity, therefore we recommended issuing a small number of permits in these WMDs. The remaining fourteen WMDs shall be regulated as buck harvest only, with no any-deer permits issued. Wildlife Division staff made these recommendations after careful review of the data and felt that these permit allocation levels would best meet current population objectives. The 2015 harvest should produce a harvest of approximately 19,500 deer, or about 14% less than the 2014 hunting season.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 11855
Chapter number/title: Ch. 4, Hunting and Trapping: 4.02, Migratory Bird Hunting
Filing number: 2015-150
Effective date: 8/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To implement the *Federal Migratory Bird Treaty Act* which establishes the general guidelines within which the States are permitted to regulate the hunting of migratory game birds. Ten additional hunting days for the regular goose season is now being allowed by the USFWS and season dates have been adjusted to reflect this. Brant and canvasback bag and possession limits have also been adjusted to comply with USFWS regulations.

Basis statement:

These rules are adopted for the purpose of implementing the *Federal Migratory Bird Treaty Act*, which establishes the general guidelines within which the States are permitted to regulate the hunting of migratory game birds. The policy behind the Federal Act and, therefore, behind these rules, is to protect the migratory game birds from over-harvest by hunters.

A public hearing was held on August 5, 2015 with 20 citizens in attendance, including members of the Waterfowl Advisory Council. The Department presented the proposal and stated there were some changes from the original proposal. Fish and Wildlife Service regulation changes that came in after the original proposal included an increase in canvasback duck daily harvest from 1 to 2, possession of 6 up from 3; a reduction in the daily bag limit for Brant from 2 to 1, possession of 3 down from 6; and an additional 10 days being allowed to states by the Fish and Wildlife Service for the regular goose season. The season dates were adjusted so that hunters could take advantage of the 10 days without other seasons going on at the same time.

After the Department's presentation the Commissioner opened the hearing to public comments. Two members of the public spoke at the hearing. One stated they supported almost all of the proposal, but would like to see a season for Barrows Goldeneye in Maine. There is currently no season for Harlequin ducks or Barrow's Goldeneye and Biologist Kelsey Sullivan stated there were probably less than 50 Barrow's in Maine currently. The second comment was regarding the change in the regular goose season dates and whether or not the Waterfowl Council was in support. One of the Council members spoke stating they felt positively about the change and that people would be able to hunt something at all times during the season (i.e., geese 2 weeks, then ducks 2 weeks then the normal season).

After the public hearing was adjourned, Department staff met with Waterfowl Council members present at the meeting to discuss the comments that were received. With a majority vote, the Council recommended the proposal move forward as presented with the changes afforded by the USFWS. No other changes were made from the original proposal.

The Department also received 2 written comments. One regarding black duck bag limits and the other regarding duck blinds and distances from additional party blinds from decoys. Both comments were acknowledged and forwarded to the Commissioner's Advisory Council and appropriate staff for consideration.

Fiscal impact of rule:

No fiscal impact anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §10104
Chapter number/title: Ch. 4, Hunting and Trapping: 4.01(G), Upland Game and Furbearing Animals: 1.a – Beaver Season Dates; 1.b – Open and Closed Areas for Beaver Trapping
Filing number: 2015-172
Effective date: 9/27/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To establish beaver trapping season dates and individual township openings and closings for the beaver trapping season.

Basis statement:

These rules amend the annual beaver trapping season dates and replace the 2014-2015 beaver trapping closures for the 2015-2016 beaver trapping season. Certain areas of the State are closed to beaver trapping at the request of landowners, who, for various reasons, do not wish to see the beaver removed from their property. Descriptions of closed areas have been clarified through the use of the names of specific lakes, brooks, rivers and streams whenever possible. There was no public hearing held on this proposal.

These rules are adopted in order to maintain beaver populations as per the Department's beaver management system. Again for the 2015-2016 season the desired objective is to increase the number of beaver harvested and reduce the number of nuisance beaver complaints. Only two written comments were received, both from Department Game Wardens regarding concerns in their districts. These comments were distributed to the Advisory Council and Department staff for their consideration.

The season dates for specific WMDs was modified from the original proposal by adding WMD 3 and removing WMD 5 from the October 19 – May 8th season, and further modifying that season to end April 30. WMDs 5 and 6 were added to the November 1 – April 30 season, and WMDs 15 and 16 were moved to the November 15 – March 31 season. These changes were in response to Advisory Council concerns that were discussed at their August 6th meeting and an attempt to encourage more trappers to travel to the northern Maine WMDs. People would be more likely to travel to WMDs 1-4 if WMDs with better infrastructure such as 5 opened later and may help reach harvest goals and objectives.

Fiscal impact of rule:

No adverse economic impact anticipated.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Inland Fisheries and Wildlife
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 12461
Chapter number/title: **Ch. 1**, Open Water and Ice Fishing Regulations
Ch. 1-A, State Heritage Fish Waters
Ch. 2, Rules Pertaining to Commercial Fishing, Fish Culture and, Fishing Derbies and Tournaments
Filing number: **2015-178, 179, 180**
Effective date: 10/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These adoptions are designed to provide for the effective conservation of game fish throughout the state, and provide for a variety of fishing opportunities. The adoptions set specific season dates, bag limits, length limits, taking restrictions and other special regulations designed to accomplish fisheries management objectives. In order to be more consistent with New Hampshire bass tournaments, the Department is also modifying rules as they pertain to bass tournaments on Maine and New Hampshire border waters for catch, measure, release and weigh-in tournaments.

Basis statement:

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2016 ice fishing and open water seasons, made additions to the State Heritage Fish Waters list and amended the regulations pertaining to bass tournaments on Maine - New Hampshire border waters.

These rules are necessary for the sound management and proper utilization of the State's inland fishery resource; this is, to provide for the fullest level of use of the resource without adversely affecting species distribution and abundance, thus ensuring that all benefits, including economic, are retained.

These rules were initiated through Department field personnel. The regulation changes were advertised with 5 public hearings held in Presque Isle, Millinocket, Ellsworth, Farmington and Brunswick (minutes attached). The Department also received 42 comments in writing both for and against various proposals. The bulk of the written comments (26) were regarding the proposal for Upper Dam Pool in Richardson Twp, and were all opposed to the proposed change in wording from "No motorboats allowed from the gates of the dam downstream or westerly 150 yards." to "No motor use on watercraft allowed from the gates of the dam downstream or westerly 150 yards." Other comments that held some concern, discussed mostly at the public hearing in Farmington, were regarding an S-4 regulation and allowing kids to fish with worms on ponds in the Pierce Pond area. These bodies of water were also existing State Heritage Fish waters.

Although no comments were received in opposition to the proposed new listings to the State Heritage Fish waters, Trout Unlimited did comment that it was unclear why DIFW was proposing "Heritage" status for 8th Debsconeag but not for Third Rainbow Deadwater. 2013 surveys indicated similar catches for brook trout in Third Rainbow Deadwater, as well as several others. Trout Unlimited would follow up with the Department on the status of those waters in the fall. No comments were received regarding the Chapter 2 portion of the proposal. The Department acknowledged all written comments and they were forwarded to the Advisory Council and Department staff for review.

The Department did put forth an amendment to the original proposal and removed the Upper Dam Pool proposal based on the fact that the original change to prohibit motorboats

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Rules Adopted January 1, 2015 to December 31, 2015
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was initiated through public petition and subsequent changes would need to follow that process. The Department also modified proposals for bodies of water in the Pierce Pond area, Dixon Pond, Helen Pond and High Pond and dropped the kids fishing portion but did keep the S-6 (artificial lures) (see attached).

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Labor, **Unemployment Insurance Commission**
Umbrella-Unit: **12-172**
Statutory authority: 26 MRS §§ 1082(2), 1192(3)
Chapter number/title: **Ch. 10**, Work Search Requirements
Filing number: **2015-017**
Effective date: 2/23/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Modification of this rule is sought to update the rule to adequately reflect the current work search methods utilized by claimants, to provide clearer guidelines regarding claimants' duty to track their work search efforts and present evidence of these efforts to the Bureau upon request, to include additional grounds for waiver of the requirement, and to modify the disqualification process.

Basis statement:

Modification of this rule is sought to update the rule to adequately reflect the current work search methods utilized by claimants, particularly with regard to online work search methods; to provide clearer guidelines regarding claimants' duty to track their work search efforts and present evidence of these efforts to the Bureau upon request; to include additional grounds for waiver of the requirement, particularly for claimants who are participating in mandatory or voluntary reemployment services during the week in question; and to modify the disqualification process such that claimants are provided with a warning and an opportunity to correct their compliance with the requirement before any disqualification results.

Fiscal impact of rule:

N/A

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Rules Adopted January 1, 2015 to December 31, 2015

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Labor, **Bureau of Employment Services**
Umbrella-Unit: **12-597**
Statutory authority: 26 MRS §2033
Chapter number/title: **Ch. 2**, Rules Governing the Competitive Skills Scholarship Program
Filing number: **2015-249**
Effective date: 12/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Competitive Skills Scholarship Program (CSSP) has been in effect since September 2007. The rule amendment provides clarity of eligibility and assessment of CSSP through changes to the components of the rule that deal with definitions, earnings evaluation, and the addition of the Bridge Program. The rule amendment will apply to all scholarship recipients, including recipients who were granted scholarships prior to the enactment of the rule amendment.

Basis statement / Purpose:

This rule implements the Competitive Skills Scholarship Program (CSSP) enacted pursuant to PL 2007 ch. 352 and codified at 26 MRS ch. 25, sub-ch. 5. CSSP is intended to provide individuals with access to education, training and support leading to skilled, well-compensated jobs with anticipated high employment demand, to improve the economic well-being of the participants in the program and to provide employers with a skilled labor force.

Fiscal impact of rule:

N/A

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: **Maine Health Data Organization**
Umbrella-Unit: **90-590**
Statutory authority: 22 MRS §§ 8703(1), 8704(4), 8708(6-A), 8712(2)
Chapter number/title: **Ch. 243**, Uniform Reporting System for Health Care Claims Data Sets
Filing number: **2015-183**
Effective date: 10/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule amendment adds clarifying language to the general submission requirements; revises descriptions and references; and updates data element names in conformance to national and industry standards.

Basis statement:

This rule explains the provisions for filing health care claims data sets from all third-party payers, third-party administrators, Medicare health plan sponsors and pharmacy benefits managers.

This rule change adds clarifying language to the general submission requirements; revises descriptions and references; and updates data element names in conformance to national and industry standards.

These changes are intended to give providers direction and time to implement modifications to their reporting systems by 02/1/2016. It is anticipated that these changes will allow for more useful analyses of the data by MHDO data users.

Fiscal impact of rule:

There is no fiscal impact on state municipalities, counties or businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: **Maine Health Data Organization**
Umbrella-Unit: **90-590**
Statutory authority: 22 MRS ch. 1683. §8704 sub-§4, §8708
Chapter number/title: **Ch. 241**, Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets
Filing number: **2015-226**
Effective date: 11/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule amendment adds clarifying language to the general submission requirements; updates references, data element names and types; and corrects data element mappings, in conformance to current national and industry standards.

Basis statement:

This rule explains the provisions for filing hospital inpatient data sets and hospital data outpatient data service sets. The provisions include identification of the organizations required to report; requirements for the content, form, medium, and time for filing the data; standards for the data reported; and compliance provisions.

This rule amendment adds clarifying language to the general submission requirements; updates references, data element names and types; and corrects data element mappings, in conformance to current national and industry standards.

These changes are intended to give providers direction and time to implement modifications to their reporting systems by 02/1/2016. It is anticipated that these changes will allow for more useful analyses of the data by MHDO data users.

Fiscal impact of rule:

There is no fiscal impact on state municipalities, counties or businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: **Maine State Housing Authority (MSHA)**
Umbrella-Unit: **99-346**
Statutory authority: 30-A MRS §§ 4722(1)(W), 4741(15), 4991 *et seq.*;
42 USCA §§ 8621 *et seq.*
Chapter number/title: **Ch. 24**, Home Energy Assistance Program Rule
Filing number: **2015-089**
Effective date: 5/16/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The replacement rule extends the FFY 2015 LIHEAP application period from April 30 to July 17 for the following applicants: tenants in subsidized housing with heat included; tenants in rental units with heat included; and households that are potential candidates for the PUC Arrearage Management Program (AMP).

Basis statement:

This rule repeals and replaces the current *Home Energy Assistance Program* rule. The rule establishes standards for administering fuel assistance, emergency fuel assistance, weatherization, and heating system repair and replacement funds to low income households in the State of Maine. The replacement rule extends the FFY 2015 LIHEAP application period from April 30 to July 17 for the following applicants: tenants in subsidized housing with heat included; tenants in rental units with heat included; and households that are potential candidates for the PUC Arrearage Management Program (AMP).

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: **Maine State Housing Authority (MSHA)**
Umbrella-Unit: **99-346**
Statutory authority: 30-A MRS §§ 4722(1)(W), 4741(15), 4991 *et seq.*;
42 USCA §§ 8621 *et seq.*
Chapter number/title: **Ch. 24**, Home Energy Assistance Program Rule
Filing number: **2015-147**
Effective date: 8/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The replacement rule (i) adds new definitions and clarifies existing definitions, (ii) deletes references to the Social Security Administration database verification process (iii) establishes new guidelines for HEAP funded weatherization activities in place of the U.S. Department of Energy Weatherization Assistance Program guidelines; (iv) revises procurement guidelines for heating system repairs and replacements; (v) clarifies eligibility criteria for a Household that includes a member who is a nonqualified alien; (vi) clarifies eligibility and response times for Energy Crisis Intervention Program; (vii) expands the eligibility for Central Heating Improvement Program services to allow for the replacement and repair of inefficient Heating Systems and preventative cleaning, tuning and evaluation of Heating Systems; (viii) increases the life-time maximum CHIP benefit for a Dwelling Unit to \$5,000 for owner occupied units and \$400 for rental units; (ix) includes MaineHousing's right to debar community action participation for malfeasance; and (x) makes other minor modifications, clarifications, grammatical changes, and formatting improvements.

Basis statement:

This rule repeals and replaces in its entirety the current *Home Energy Assistance Program Rule*. The rule establishes standards for administering fuel assistance, emergency fuel assistance, weatherization, and heating system repair and replacement funds to low income households in the State of Maine. The replacement Rule (i) adds new definitions and clarifies existing definitions, (ii) deletes references to the Social Security Administration database verification process (iii) establishes new guidelines for HEAP funded weatherization activities in place of the U.S. Department of Energy Weatherization Assistance Program guidelines; (iv) revises procurement guidelines for heating system repairs and replacements; (v) clarifies eligibility criteria for a Household that includes a member who is a non-qualified alien; (vi) clarifies eligibility and response times for Energy Crisis Intervention Program; (vii) expands the eligibility for Central Heating Improvement Program services to allow for the replacement and repair of inefficient Heating Systems and preventative cleaning, tuning and evaluation of Heating Systems; (viii) increases the life-time maximum CHIP benefit for a Dwelling Unit to \$5,000 for owner occupied units and \$400 for rental units; (ix) includes MaineHousing's right to debar community action participation for malfeasance; and (x) makes other minor modifications, clarifications, grammatical changes, and formatting improvements.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Maine State Housing Authority (MSHA)
Umbrella-Unit: 99-346
Statutory authority: 30-A MRS §4741.1, §4741.18, §4842, *et seq.*
Chapter number/title: Ch. 19, Homeless Solutions Rule
Filing number: 2015-184
Effective date: 10/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule repeals and replaces the current *Homeless Programs Rule*, Ch. 19, with a new *Homeless Solutions Rule*. The intent of the replacement rule is to transform the homeless system to effectively prevent and end homelessness by aligning resources with current state and federal initiatives. The Department of Housing and Urban Development has introduced new requirements and priorities on the use of federal resources which focus on an adequate geographic network of emergency housing and a rapid rehousing approach with support for stability and success in maintaining housing and system performance measures to ultimately end and prevent homelessness. In addition to new federal requirements, there have been several state initiatives and pilot programs that have served as models for the proposed changes to the new *Homeless Solutions Rule*. The definitions section includes new terminology. The “Emergency Shelter Housing Requirements” section addresses the new requirements and best practice models. The “Emergency Shelter Housing Funding Allocation” section includes a new funding methodology. The “Data Collection Requirements” section and the “Monitoring and Assessment” section include an annual review for program compliance.

Basis statement:

This Rule replaces in its entirety the current *Homeless Programs Rule*. MaineHousing uses funds from certain federal and state resources to give grants to agencies for a variety of activities to assist people who are experiencing homelessness or the risk of being homeless. The rule governs MaineHousing's allocation of resources for such programs, program design, the publication and distribution of program guides, basic criteria for determining eligible recipients, and potential selection criteria. This replacement *Homeless Solutions Rule* places new emphasis on outcomes in alignment with current federal initiatives to end homelessness.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6071, 6171(3)
Chapter number/title: Ch. 24, Importation of Live Marine Organisms: 24.10(4)(F), Restricted Area for American Oyster
Filing number: 2015-008
Effective date: 1/21/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

This emergency rule-making expands the current Sheepscot River restricted area to include waters, shores, and flats between the southernmost point of Linekin Neck, Boothbay and the eastern shore of the Kennebec River. The movement of American oysters (*Crassostrea virginica*) from these waters will be prohibited, without a permit from the Maine Department of Resources (DMR), when the size of the oyster is greater than 3 mm.

The DMR finds that there is a need for this emergency rule based upon specific information obtained by the Department during routine health surveillance. Specifically, Polymerase Chain Reaction (PCR) results received on January 6, 2015 from Kennebec River Biosciences in Richmond, Maine confirmed the presence of MSX (*Haplosporidium nelsoni*) in the waters around Westport Island and south of the existing restricted area boundary. Each of the 12 5-oyster pools (n=60 oysters) sampled was found to be positive for MSX. Subsequent histology confirmed the presence of both early and late stage infection. MSX is an oyster disease caused by a microscopic parasite. It is a health and mortality problem for American oysters but does not affect human health or consumption. Oysters are routinely marketed from populations that carry MSX.

The Department finds that this emergency rule is necessary and appropriate to limit the spread of MSX infection outside of the currently affected areas. Due to the interconnectedness of the Sheepscot and Back Rivers and their many tributaries and embayments, the Department believes a wider expansion of the restricted area is warranted until additional testing can determine the extent of MSX infection.

Persons will be required to obtain a permit for the movement-but not harvest-of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with Ch. 24.05. Permits require pathological examination, satisfactory to the Department, demonstrating the shellfish to be free of the disease(s) found in the restricted area.

The Department will pursue regular concurrent rule-making in order to make this emergency regulation permanent. This emergency rule-making is necessary to protect the American oyster resource (aquaculture and wild) from unusual damage and or imminent depletion that would be caused by continued uncontrolled movement of oysters infected by MSX throughout Maine's waters. As authorized by 12 M.R.S. §§ 6071 and 6171(3) the Commissioner of Marine Resources adopts this emergency regulation.

Fiscal impact of rule:

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171(3)
Chapter number/title: Ch. 11, Scallops: Targeted Closures - Cobscook Bay, Whiting & Dennys Bays, St. Croix River, Inner Little Kennebec / Englishman Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River, Casco Bay
Filing number: 2015-020
Effective date: 2/28/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Commissioner adopts this emergency rulemaking for the implementation of conservation closures located in Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay in order to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion. In addition, harvesting in the St. Croix River will be limited to one day per week for draggers, and one day per week for divers. Scallop populations throughout the state are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2014-15 fishing season in these areas may deplete a severely diminished resource beyond its ability to recover.

Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay and restricts harvest in the St. Croix River, as authorized by 12 M.R.S. §6171(3).

Basis statement:

The Maine scallop fishery was formerly a valuable winter/spring fishery providing a substantial source of income to fishing businesses at a time of year without many other fishing opportunities. The fishery experienced an all-time low in 2005, landing 33,141 meat pounds of scallop meats from Maine waters valued at \$272,703. The Department has been working closely with the Scallop Advisory Council and members of the industry for several years to rebuild a sustainable resource and provide economic opportunity in a limited fishery. Beginning in 2009, the DMR adopted a spatial management approach that has included targeted area closures and Limited Access Areas (LAA), and implemented a Rotational Management Plan accompanied by a 30% harvest target that when met would trigger in-season emergency management actions to ensure areas are not overfished and rebuilding continues. The combination of conservation measures appears to be effective as demonstrated by 505,837 meat pounds being landed in 2013 valued at \$5.7 million, a fifteen-fold increase in landings and an almost twenty one-fold increase in value from 2005, while the fishery has experienced a significant increase in active participation in recent years.

This season was undertaken with the understanding that the length of the season likely far exceeds what the resource can sustain, and that the Department may need to use emergency rulemaking authority during the season to prevent overfishing. The industry, through the Scallop Advisory Council, requested that the Department provide the fishing opportunity up front, and make adjustments in-season as necessary. The Department was willing to take this approach in part because this fishery is prosecuted in the winter months, and proposing a very limited season

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could create an incentive to fish in unsafe conditions. The Department emphasized that it will take action to continue to rebuild the scallop resource, as well as provide stability and predictability for the industry into the future. Therefore, the DMR expanded the trigger mechanism to the entire fishery in order to move towards a more sustainable harvest of the resource statewide so that when data indicate that 30% of the harvestable biomass has been removed from an area, it will be closed early via emergency action in order to ensure that the resource has the ability to replace what has been removed and continue to rebuild. Such action will ensure continue progress towards the goal of a sustainable, rebuilt fishery.

The Department seeks to take rulemaking action to close the following targeted areas: Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay while restricting harvest in the St. Croix River, which will remain open Mondays for draggers and Fridays for divers during the months of March and April, 2015. Based on direct input from Marine Patrol and independent industry participants, the level of fishing effort in these discrete areas during the fishing season has likely exceeded the 30% removal target to ensure the fishery continues to rebuild and continued fishing threatens future recruitment of sublegal "seed" scallops in these areas and remaining broodstock scallops that are needed for successful spawning. For Cobscook Bay, this information along with data collected through the DMR port sampling program as well as the DMR fishery independent in-season survey further indicate that the area has exceeded the 30% removal target for legal biomass which correlates with estimated removals for the area of 222,30 pounds of scallop meats, which is 37% of the 595,200 pounds available. Also, a fishery independent survey in April 2014 identified areas within the Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage and Bagaduce River as having an increased density of harvestable scallops following two years of closure and moderate amounts of seed scallops and thereby suggesting a recovery has begun. Incidental mortality of scallops caused by dragging has been estimated to be at least 13-17% per tow. This level of scallop mortality would have a significant negative impact on the abundance of the sublegal scallops that will recruit into the fishery in future seasons. Immediate action is necessary to protect the remaining seed and legal scallops in all of these areas, allow for continued harvest in the remaining areas, and continue to support rebuilding efforts.

Fiscal impact of rule:

Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6071, 6171(3)
Chapter number/title: Ch. 24, Importation of Live Marine Organisms: 24.10(4)(F),
Restricted Area for American Oyster
Filing number: 2015-022
Effective date: 3/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

This rule-making would make permanent the emergency rule enacted on January 15, 2015 that expanded the current Sheepscot River restricted area to include waters, shores, and flats between the southernmost point of Linekin Neck, Boothbay and the eastern shore of the Kennebec River. The movement of American oysters (*Crassostrea virginica*) from these waters will be prohibited, without a permit from the Maine Department of Resources (DMR), when the size of the oyster is greater than 3 mm.

The DMR found that there was a need for the emergency rule based upon specific information obtained by the Department during routine health surveillance. Specifically, Polymerase Chain Reaction (PCR) results received on January 6, 2015 from Kennebec River Biosciences in Richmond, Maine confirmed the presence of MSX (*Haplosporidium nelsoni*) in the waters around Westport Island and south of the existing restricted area boundary. Each of the 125-oyster pools (n=60 oysters) sampled was found to be positive for MSX. Subsequent histology confirmed the presence of both early and late stage infection. MSX is an oyster disease caused by a microscopic parasite. It is a health and mortality problem for American oysters but does not affect human health or consumption. Oysters are routinely marketed from populations that carry MSX.

The Department found that the emergency rule was necessary and appropriate to limit the spread of MSX infection outside of the currently affected areas. Due to the interconnectedness of the Sheepscot and Back Rivers and their many tributaries and embayments, the Department believes a wider expansion of the restricted area is warranted until additional testing can determine the extent of MSX infection.

Persons will be required to obtain a permit for the movement-but not harvest-of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with Ch. 24.05. Permits require pathological examination, satisfactory to the Department, demonstrating the shellfish to be free of the disease(s) found in the restricted area.

Fiscal impact of rule:

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6439-A, 6449
Chapter number/title: Ch. 25, Lobster and Crab: 25.04, Lobster Trawl Limits; 25.07, Management Framework for Island Limited Entry Program
Filing number: 2015-023
Effective date: 3/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

This rule-making addresses two separate lobster trawl limits, one in the vicinity of Kittery and one off Hancock County, and also creates an island limited-entry program for the island of Frenchboro.

The trawl limit that was proposed in the vicinity of Kittery is unchanged from the existing trawl limit in law. The Department is seeking to adopt this trawl limit in regulation for consistency with all other trawl limits, so that it is easier to make changes requested by industry as necessary. The trawl limit in law would subsequently be repealed. The trawl limit in Hancock County is to be amended so that it does not conflict with changes to minimum trawl lengths that will be necessary for compliance with the National Marine Fisheries Service (NMFS) federal vertical line regulations (otherwise known as the “whale rules”) published June 27, 2014, and which go into effect in Maine on June 1, 2015. The position coordinates in the proposed rule have been adjusted for precision and enforcement purposes, so that the outer perimeter of the restricted area coincides with the Federally established six mile line making them congruent at its’ border. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The measures necessary for compliance with the federal whale rules will be accomplished in a subsequent rule-making in Ch. 75.

This rule-making would also address a recent island limited entry referendum vote for Frenchboro. It would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

Fiscal impact of rule:

Enforcement of these amendments would not require considerable additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171-A, 6192(4); 5 MRS §8054
Chapter number/title: Ch. 25, Lobster and Crab: 25.08, Lobster Trap Tag System
Filing number: 2015-024
Effective date: 3/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The Department proposed this change in rule pending approval of a conservation equivalency from the Atlantic States Marine Fisheries Commission (ASMFC). The rule-making would remove the requirement that a trap tag be attached to the trap only by the means for which the tag was designed. Without that specification, fishermen could securely attach the tag by other means (for example, hog rings) which would enable them to change gear over and reuse tags already in their possession. Under the current system, they must cut the tag out and bring it to a DMR office to get replacement tags. By allowing fishermen to use the same valid tag, it will reduce a significant administrative burden on Marine Patrol and eliminate the need for fishermen to travel to a DMR office for this purpose, but will not compromise the effectiveness of the trap tag system for enforcement.

Fiscal impact of rule:

Enforcement of this amendment will not require measurable additional activity in this agency. Existing enforcement personnel will monitor compliance during their patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6173, 6505-A, 6575-B
Chapter number/title: Ch. 32, Eels: Requirements for the 2015 Elver Harvesting Season
Filing number: 2015-025
Effective date: 3/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

This rule-making establishes the quota system for the 2015 elver season, which is necessary for compliance with Atlantic States Marine Fisheries Commission (ASMFC) management measures. At the October 2014 meeting of the ASMFC American Eel Board, the Board approved Addendum IV to the American Eel Fisheries Management Plan, which reduced Maine's elver quota to 9,688 lbs. As required by 12 MRS §6505-A, the rule establishes the overall annual quota for the state; the amount of quota that is allocated to persons licensed to fish for elvers by the Department of Marine Resources and the formula by which that quota will be allocated to individual license holders; the portion of the annual quota that is allocated to the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs, in accordance with the percentages established by 12 MRS §6302-B, subsection 2.

The Board's actions respond to the findings of the 2012 benchmark stock assessment indicating the American eel population in U.S. waters is depleted. The stock has declined in recent decades and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern. Causes of decline are likely due to a combination of factors including historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. Addendum IV is the second phase of management action in response to the stock assessment.

In addition, this rule:

- Establishes the tributaries of the St. Croix River within which the use of fyke nets are prohibited, in accordance with 12 M.R.S. §6575-B, sub-§8;
- Defines the activities in which an unlicensed crew member may assist an individual who holds a license that authorizes crew, as authorized by 12 M.R.S §6505-A sub 1-B.
- Establishes a requirement that persons licensed as elver dealers record all purchase and sale transactions with other elver dealers using an elver dealer transaction card;
- Establishes a mandatory meeting for elver dealers licensed under 12 M.R.S. §6864, to ensure that elver dealers understand their responsibilities for proper administration of the individual fishing quota system.
- Requires that before purchasing elvers each fishing day (as defined within the regulation), licensed elver dealers synchronize their DMR-provided reporting software in order to align with current Department records.
- Clarifies that no person may possess elvers that were harvested outside the State of Maine, except if they are exclusively transporting legally harvested elvers through the State under the authority of the laws of the United States.

Fiscal impact of rule:

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171
Chapter number/title: Ch. 40, Smelt Regulations
Filing number: 2015-026
Effective date: 3/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The principal reason for this rulemaking is to protect the state's reduced rainbow smelt population from further decline. Rainbow smelt populations have been contracting in range over the last century. Historically, populations were found from Chesapeake Bay to Labrador, but the current southern extent of the range is likely Buzzards Bay, Massachusetts. This range contraction has occurred rapidly, in less than 100 years with a pronounced population reduction in the past 20 years.

Since 2006, the Department of Marine Resources has performed multiple studies to document the current status of anadromous smelt in Maine and determine reasons for the population decline. Department surveys have shown that Maine smelt populations have become reduced in many portions of the state. Comparing the number and strength of spawning runs currently to that of the late 1970's, the DMR has found that many runs have declined while others are extirpated (no longer in existence). Data collected during spawning and creel surveys have also shown that length at age has declined compared to historical records in upper Casco Bay and the Kennebec River. This is biological evidence of a stressed population and may translate to reduced fecundity, lower spawning success, and less juvenile production.

Department surveys have found evidence of population decline in many portions of the state. In 2005-2009, DMR and Marine Patrol documented all current spawning sites in Maine. Comparing the current strength of runs to data collected by DMR in the early 1970's and in 1984 from DMR and USFWS, the DMR found that in the area from Kittery to Penobscot Bay, 11% of runs are currently declining. In the Downeast region, only 2% of runs are declining. Of the sites that have historically supported smelt runs, only 38% of the sites west of Penobscot Bay were documented to currently support spawning runs, while 61% of sites Downeast still support runs.

Other surveys in Maine have also documented declines in smelt abundance. Annual juvenile abundance surveys in the Kennebec River and Merrymeeting Bay have found that the Catch-per-Unit-Effort (CPUE) of rainbow smelt has been below the series average since 2005, and has been above the 25% quartile only one time since 2008. Also on the Kennebec River and Merrymeeting Bay, winter creel surveys targeting recreational smelt fishing have found that the number of smelt caught by recreational fishers during 2009-2014 is on average lower than during 1979-1982. In 2014, the lowest catches on record were reported.

Spring fyke net surveys targeting spawning smelt have found that runs west of Penobscot Bay have highly variable CPUEs from year to year, indicating unstable populations, while runs surveyed Downeast have consistent CPUEs. Other biological parameters, like age distributions and sex ratios, show that runs Downeast are more stable because they are composed of larger age distributions and low sex ratios, while runs in Penobscot Bay and west have truncated age distributions (few older smelt), and females are more limited.

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Additionally, Department studies have documented threats to successful smelt spawning including poor water quality associated with non-point source pollution, as well as head-of-tide dams, and undersized or hanging road crossing culverts that block upstream migrations. Because of these documented population declines and evidence of biologically stressed populations, the Department is utilizing management measures that will sustain and restore this species.

Fiscal impact of rule:

Enforcement of this rule will not require additional in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171(3)
Chapter number/title: Ch. 45, Shrimp
Filing number: 2015-047
Effective date: 3/20/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

In November 2014, the Atlantic States Marine Fisheries Commission's (ASMFC) Northern Shrimp Section approved a moratorium for the 2015 fishery. This action was taken in response to the findings of the 2014 Stock Status Report, indicating current fishable biomass is the lowest on record. A suite of indicators were used in the 2014 Stock Status Report. These include abundance and biomass indices from fishery independent surveys for 2012-2014, which were at all-time lows, and recruitment indices for the 2010-2012 year classes, which were well below average. The Northern Shrimp Technical Committee considers the stock to have collapsed with little prospect of recovery in the immediate future. For these reasons, the Department did not adopt a season for the 2015 fishery and the last season in regulation was for 2013. This emergency rule-making is adopted for the purpose of clarifying that there is no opportunity for harvest in 2015, whether for commercial or personal use purposes.

As authorized by 12 M.R.S §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

Fiscal impact of rule:

Enforcement of the proposed regulation would not require measurable additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171(3)
Chapter number/title: Ch. 32, Eels: 32.07, Elver Harvesting Limitations; Gear
Filing number: 2015-084
Effective date: 5/8/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The principal reason is to protect the American eel by ensuring that the established quota (9,688 lbs) for elvers is not exceeded by the unlimited use of fyke nets in the fishery.

Basis statement:

At the October 2014 meeting of the Atlantic States Marine Fisheries Commission's (ASMFC) American Eel Board, the Board approved Addendum IV to the American Eel Fisheries Management Plan, with the goal of reducing mortality and increasing conservation of American eel stocks across all life stages. Addendum IV reduced Maine's elver quota to 9,688 lbs. The Board's actions were in response to the findings of the 2012 benchmark stock assessment which indicated that the American eel population in U.S. waters is depleted. The stock has declined in recent decades, and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern. Causes of decline are likely due to a combination of factors including historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. Addendum IV is the second phase of management action in response to the stock assessment.

For compliance with this Addendum, Maine is required to maintain daily trip level reporting to monitor quota at the individual and statewide level, and ensure a pound-for-pound payback in the event of quota overages in its glass eel fishery. Through the implementation of the swipe card system which is required for all commercial harvesters, the daily trip level reporting requirement is met.

In 2014, no sustenance licenses were issued by any of the four Federally recognized Tribes. Prior to the start of the 2015 season, the Department became aware of communications from the Passamaquoddy Tribe to its members, in which they notified their members of the availability of sustenance licenses in the 2015 season. The Department sent the Tribe a letter requesting information regarding the number of sustenance licenses they intended to issue, in order to determine whether it was necessary to withhold a portion of the Passamaquoddy Tribe's elver quota for sustenance purposes. The Tribe indicated that they would likely issue sustenance licenses, but did not indicate in what amount. In the absence of any further information, the Department withheld the maximum percentage allowable by law (10%) of the total Passamaquoddy quota of 1,356 lbs (or 136 lbs) in an attempt to ensure that the sustenance fishing did not cause the state to exceed the total quota established for the conservation of the American eel.

On May 4, 2015, the Department received notification from the Passamaquoddy Tribe that they had issued 39 sustenance licenses, 31 of which were for a combination of fyke net and dip net, and 8 of which were dip net only. Up until this communication, it was the Department's understanding that the existing Tribal Fisheries Management Plan prohibited the use of fyke nets by its members. Fyke nets are significantly more capable of catching large amounts of elvers than dip nets (in 2014, the average catch per trip for dip net was 0.68 lbs, while the average catch per fyke net was 1.35 lbs; fyke nets are also far more likely to have large catches than dip nets). All other fyke nets authorized by law under §6575-B sub-§2-B, or pursuant to

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§6302-A sub-§3 E, E-1, F, or G have specific amounts of quota associated with them which is tracked daily by the use of the swipe card system. The Passamaquoddy Tribe does not have a mechanism to accurately track and report the landings of sustenance license holders to the Department. Because of the capability of the gear type and the quantity of licenses issued, the Department is concerned that these licenses will cause the overall state quota to be exceeded, and negatively impact the elver resource. By harvesting elvers in excess of the established quota, there is potential for unusual damage to the American eel resource.

Fiscal impact of rule:

None anticipated.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171(3), 6192
Chapter number/title: Ch. 34, Groundfish Regulations: 34.10, Maine Groundfish Management Plan
Filing number: 2015-085
Effective date: 5/9/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

(See Basis Statement.)

Basis statement:

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacts this emergency rulemaking for all persons aboard charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery is closed and it is unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is reduced to 17 inches to reduce mortality.

Updated assessments for Gulf of Maine cod indicate the stock is in severe decline and haddock exceeded the catch limit in place for FY 2014. Because the FY 2014 recreational overage was substantial, significant changes in management measures were deemed necessary by NMFS to ensure the recreational fishery does not exceed its catch limit again in FY 2015. The necessary reduction to ensure recreational harvest will not exceed the 2015 catch limits represents a 78% reduction for Atlantic cod, and an 84% reduction for haddock from the actual estimated 2014 recreational catch. This rule must be adopted on an emergency basis to implement the management measures in time to ensure that recreational harvest limits are not exceeded in 2015, in order to protect cod and haddock from unusual damage or imminent harm caused by overfishing.

Fiscal impact of rule:

Enforcement of the proposed regulation would not require measurable additional activity in this agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171
Chapter number/title: Ch. 42, Striped Bass: Striped Bass Minimum Size, **Option B**
Filing number: 2015-086
Effective date: 5/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

At their October 2014 meeting, the Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass. The Addendum establishes new fishing mortality (F) reference points, as recommended by the 2013 benchmark stock assessment. In order to reduce F to a level at or below the new target, coastal states are required to implement a 25% harvest reduction from 2013 levels. Maine advanced two options for public comment to achieve that reduction. This rulemaking (Option B) would establish a new minimum size for Maine's striped bass fishery. Specifically, this rule would allow a person would be able to take one striped bass each day 28 inches or more in total length.

A second option (Option A) with a 24"-26" slot limit was also proposed in a separate concurrent rulemaking, however based on consideration of comments received, that proposed rule was not advanced. Comments received in support of the 24'-26" slot were considered comments in opposition to the 28" minimum, and are addressed within this rule-making.

This management action is deemed necessary to respond to the results of the 2013 Atlantic striped bass benchmark assessment indicating F (Fishing Mortality) in 2012 was above the new F target, and female spawning stock biomass (SSB) has been steadily declining below the target level since 2006. This means even though the stock is not overfished and overfishing is not occurring, SSB is approaching its overfished threshold and stock projections show SSB will likely fall below the threshold in the coming years. In addition, a similar decline has been observed in total harvest.

Fiscal impact of rule:

Enforcement of the proposed regulation would not require measurable additional activity in this agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171
Chapter number/title: Ch. 75, Protected Resources
Filing number: 2015-087
Effective date: 5/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The Department proposed this change in rule to address the federal vertical line regulations (otherwise known as the “whale rules”), which were published by National Marine Fisheries Service (NMFS) on June 27, 2014, and which go into effect in Maine on June 1, 2015. This rule-making is necessary for consistency and compliance with the federal requirements of the Atlantic Large Whale Take Reduction Plan (ALWTRP) Final Rule in accordance with the *Marine Mammal Protection Act* and the *Endangered Species Act*. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The various changes apply to areas of Maine’s Pocket Waters, inside the Maine Sliver Area and Federal Waters. The Department is adopting additional gear marking, a new 6-mile line, minimum trawl lengths and some island buffers in regulation for compliance and consistency with the federal whale rules.

The various changes apply to trap/pot fisheries in areas of Maine’s Pocket Waters, inside the Maine Sliver Area and Federal Waters. Existing enforcement personnel will continue to monitor compliance during their routine patrols.

Fiscal impact of rule:

Existing enforcement personnel will monitor compliance during their patrols.

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Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6173, 6749
Chapter number/title: **Ch. 26**, Sea Urchin Regulations and 2015-2016 Harvesting Season
(filed with amendments to Ch. 8; see 2015-142 below)
Filing number: **2015-141**
Effective date: 8/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

This regulation establishes season limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 during the 2015-2016 season. It also establishes the requirements for urchin harvesters and dealers to use an electronic reporting system (“swipe card system”) to record all transactions in which urchins are bought or sold.

For Zone 1, a 15-day season is established for divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as in the 2014-2015 season. The Sea Urchin Zone Council recommended the selection of these particular days. Divers, rakers and trappers may fish 15 days in September (“early season”), or 15 days in December (“late season”); and draggers in December and January (“early season”), or February and March (“late season”).

For Zone 2, a 38-day season is established for divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as in the 2014-2015 season. The Sea Urchin Zone Council recommended the selection of these particular days. Divers, rakers and trappers may fish 38 days in October through December (“early season”), or 38 days in December through March (“late season”); and draggers would have 38 days in October through March (“early season”) or December through March (“late season”).

For the Whiting & Dennys Bays Limited Access Area in Zone 2, a 9-day season is established for Zone 2 divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as the season in 2014-2015. Zone 2 divers, rakers and trappers may fish 9 days in November and December (“early season”), or 9 days in December and March (“late season”); both early and late season Zone 2 draggers would have 9 days in December and March. The Sea Urchin Zone Council recommended the selection of these particular days with exception of December 15 for the early dive season and December 8, 23 and 29 for the late drag season which were chosen for consistency with the 38 day calendars.

Fiscal impact of rule:

Enforcement of these amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6173, 6749
Chapter number/title: **Ch. 8**, Landings Program (*filed with amendments to Ch. 26; see 2015-141 above*)
Filing number: **2015-142**
Effective date: 8/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See filing 2015-141 above)

Basis statement:
(See filing 2015-141 above)

Fiscal impact of rule:
(See filing 2015-141 above)

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171
Chapter number/title: Ch. 34, Groundfish Regulations: 34.10(B), Maine Groundfish Management Plan: Size, Possession and Gear Restrictions
Filing number: 2015-143
Effective date: 8/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacted emergency rule-making for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been closed and it is now unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is now reduced to 17 inches to reduce mortality. This rule-making would make that emergency rule-making permanent.

Updated assessments for Gulf of Maine cod indicate the stock is in severe decline and haddock exceeded the catch limit in place for FY 2014. Because the FY 2014 recreational overage was substantial, significant changes in management measures were deemed necessary by NMFS to ensure the recreational fishery does not exceed its catch limit again in FY 2015. The necessary reduction represents a 78% reduction for Atlantic cod, and an 84% reduction for haddock from the actual estimated 2014 recreational catch. This rule was adopted on an emergency basis to implement the management measures in time to ensure that recreational harvest limits are not exceeded in 2015, in order to protect cod and haddock from unusual damage or imminent harm caused by overfishing.

Basis statement:

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacted emergency rule-making for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been closed and it is now unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is now reduced to 17 inches to reduce mortality. This rule-making would make that emergency rulemaking permanent.

Fiscal impact of rule:

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171-A
Chapter numbers/titles: **Ch. 115**, *Vibrio parahaemolyticus* Control Plan
Ch. 9, Harvester: Shellstock Harvesting, Handling and Sanitation
Ch. 15, General Shellfish Sanitation Requirements
Ch. 16, Uniform Physical Plant Equipment and Operation Requirements
Ch. 17, Shucker-Packer
Ch. 18, Shellstock Shipping
Ch. 19, Reshipper
Ch. 20, Depuration
Ch. 22, Retail Shellfish
Filing number: 2015-189 thru 197
Effective date: 1/1/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

The enactment of Ch. 115, “*Vibrio parahaemolyticus* Control Plan”, establishes handling requirements for oysters and hard clams harvested from the Damariscotta River north of a line beginning at Montgomery Point, Boothbay, and running southeast to Jones Point, South Bristol. The rule was amended following public comment to correctly specify Jones Point, South Bristol instead of Bristol.

The additional handling requirements are designed to avoid an illness outbreak scenario that would trigger mandatory development of a *Vibrio* control plan. In addition to attending mandatory annual training, harvesters and certified shellfish dealers are required to submit a harvest plan to the Department of Marine Resources by March 1 of each year demonstrating the method to be used to achieve internal temperatures of 50 degrees Fahrenheit in harvested oysters and clams. In addition, the Rule imposes maximum time periods for exposure to ambient air prior to cooling, and resubmergence criteria if the time periods are exceeded. The standards are more stringent if ambient temperature reaches 80 degrees Fahrenheit or above. The rule prohibits harvesters from selling from their homes and prohibits recreational harvest during the control period. The rule was amended to clarify that the prohibition on recreational harvest does not apply to individuals who hold Limited Purpose Aquaculture licenses when they are taking shellfish from their license site. The regulations will go into effect on January 1, 2016.

Ch. 9, 15, 16, 17, 18, 19, 20, 22 are amended to include reference to the newly enacted Ch. 115. Minor changes in Ch. 15 are included to correct an error in an exception that applies to commercial shellfish harvesters and to clarify shellfish tagging and labeling requirements for dealers.

Fiscal impact of rule:

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171
Chapter number/title: Ch. 26, Sea Urchins: Sea Urchin Regulations and Targeted Closures
Filing number: 2015-198
Effective date: 10/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

For purposes of conservation, pursuant to 12 MRS §6171 and §6749, this amended rule seeks to conserve the sea urchin resource for utilization in the future, and therefore should have a positive impact on Maine's fishing industry in the long term. This rule would establish a targeted closure in the Cat Ledges Area in order to facilitate an industry-led Pilot Sea Urchin Restoration Project in the area. The closure is proposed for three years and will expire on May 1, 2018 when the project is anticipated to be complete. The goal of the project is to evaluate success of transplanting wild sea urchins and the out planting of hatchery raised juvenile sea urchins as a means to reestablish a colony of commercially viable urchins in an area that once supported wild harvest, where they are now commercially extinct. This effort has been developed through the Sea Urchin Zone Council (SUZC) and is an industry-led project with harvesters conducting the majority of the work with the support of the SUZC's scientists. In addition, this regulation would remove the restriction that Zone 2 divers may not possess, fish or take urchins with a bag having a mesh opening of less than 2 ¼ inches between knots, as Zone 2 divers are now required to cull undersized urchins on bottom.

Basis statement:

This rule would establish a targeted closure in the Cat Ledges Area in order to facilitate an industry-led Pilot Sea Urchin Restoration Project in the area. The closure is proposed for three years and will expire on May 1, 2018 when the project is anticipated to be complete. The goal of the project is to evaluate success of transplanting wild sea urchins and the out planting of hatchery raised juvenile sea urchins as a means to reestablish a colony of commercially viable urchins in an area that once supported wild harvest, where they are now commercially extinct. This effort has been developed through the Sea Urchin Zone Council (SUZC) and is an industry-led project with harvesters conducting the majority of the work with the support of the SUZC's scientists. In addition, this regulation would remove the restriction that Zone 2 divers may not possess, fish or take urchins with a bag having a mesh opening of less than 2 ¼ inches between knots, as Zone 2 divers are now required to cull undersized urchins on bottom.

Fiscal impact of rule:

Enforcement of these amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6722
Chapter number/title: Ch. 11, Scallops (Atlantic Sea Scallop Regulations and 2015-2016 Harvesting Season)
Filing number: 2015-199
Effective date: 10/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule-making is necessary to establish the 2015-2016 scallop season. The Department advanced the SAC recommendation which includes a 15 gallon daily limit and a 60-day season in Zone 1. This is a 10-day reduction from 2014-2015. Several targeted closures were also proposed for Zone 1, reflecting the need for further conservation measures to assist in rebuilding in this area of the state based on the recent spring survey information. Fifteen days were proposed in the Zone 1 Limited Access Areas for divers and draggers. For Zone 2, the SAC recommended a 15 gallon daily limit and a 70-day season. In Zone 3, a 50-day season was proposed and 17 potential days in the Whiting & Dennys Bays Limited Access Area.

While the resource may not be able to accommodate the full 70-day season, the SAC and the majority of the industry prefer to have the opportunity of fishing as many of the 70 days as possible given the many foul weather days in January and February that prevent industry members from safely accessing the resource. DMR will use emergency rulemaking authority to close areas in order to protect the scallop resource if unusual damage and/or imminent depletion become evident.

In addition, the DMR is proposing to implement a number of targeted closures based on depletion, seed, and the presence of spat-producing scallops which include Eastern Casco Bay, Damariscotta River, Ocean Point, Muscle Ridge (open two days per week), Lower Muscle Ridge, South Portland Harbor, Lower Broad Sound (Casco Bay), Sheepscot River and Muscongus Bay.

Finally, the proposed rule reorganizes the chapter to clarify the distinction between the statutory limits of the scallop season, open days, and the in-season closures of specific areas which are implemented in order to prevent unusual damage or imminent depletion of the resource.

Based upon comments received during the proposed rule-making process, the Department has changed the following items in the adoption documents:

- The Inner Harbor/Deep Hole area has been added as a Targeted Closure.
- A minor change to the boundaries of the Lower Jericho Bay, Lower Blue Hill Bay/Jericho Bay and East Isle Au Haut Rotational Areas.
- Removal of the reference to survey language for the implementation of Targeted Closures.
- Two Saturday Limited Access Area days were moved to from January to March in the Zone 1 dive calendar.

Basis statement:

This rulemaking is necessary to establish the 2015-2016 scallop season. The Department is adopting a 15 gallon daily limit and a 60-day season in Zone 1. This is a 10-day reduction from 2014-2015. Several targeted closures are also proposed for Zone 1, reflecting the need for further conservation measures to assist in rebuilding in this area of the state based on the recent spring survey information. Fifteen days are proposed in the Zone 1

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Limited Access Areas for divers and draggers. For Zone 2, the Department is adopting 15 gallon daily limit and a 70-day season. In Zone 3, a 50-day season is established and 17 potential days in the Whiting & Dennys Bays Limited Access Area.

While the resource may not be able to accommodate the full 70-day season, the SAC and the majority of the industry prefer to have the opportunity of fishing as many of the 70 days as possible given the many foul weather days in January and February that prevent industry members from safely accessing the resource. DMR will use emergency rulemaking authority to close areas in order to protect the scallop resource if unusual damage and/or imminent depletion become evident.

In addition, the DMR is implementing a number of targeted closures based on depletion, seed, and the presence of spat-producing scallops which include Eastern Casco Bay, Damariscotta River, Ocean Point, Muscle Ridge (open two days per week), Lower Muscle Ridge, South Portland Harbor, Lower Broad Sound (Casco Bay), Sheepscot River and Muscongus Bay.

Finally, the rule reorganizes the chapter to clarify the distinction between the statutory limits of the scallop season, open days, and the in-season closures of specific areas which are implemented in order to prevent unusual damage or imminent depletion of the resource.

Fiscal impact of rule:

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171(3)
Chapter number/title: Ch. 11, Scallops: 11.22, Targeted Closures (1), (12), (13), (14) - Muscle Ridge, Gouldsboro and Dyer Bays, Wohoa Bay and Jonesport Reach and Inner Machias Rotational Area
Filing number: 2015-246
Effective date: 12/13/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Commissioner adopts this emergency rule-making for the implementation of conservation closures located in Gouldsboro & Dyer Bays, Wohoa Bay & Jonesport Reach and Inner Machias Rotational Area in order to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion. Scallop populations throughout the state are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2015-16 fishing season in these areas may deplete a severely diminished resource beyond its ability to recover. Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the brood stock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in Gouldsboro & Dyer Bays, Wohoa Bay & Jonesport Reach and Inner Machias Rotational Area as authorized by 12 MRS §6171(3). In addition, a clarification to the access in the Muscle Ridge Limited Targeted Closure is needed to ensure that access to this area does not overlap with that for the West Penobscot Bay Limited Access Area for both draggers and divers.

Basis statement:

The Maine scallop fishery was formerly a valuable winter/spring fishery providing a substantial source of income to fishing businesses at a time of year without many other fishing opportunities. The fishery experienced an all-time low in 2005, landing 33,141 meat pounds of scallop meats from Maine waters valued at \$272,703. The Department has been working closely with the Scallop Advisory Council and members of the industry for several years to rebuild a sustainable resource and provide economic opportunity in a limited fishery. Beginning in 2009, the DMR adopted a spatial management approach that has included targeted area closures and Limited Access Areas (LAA), and implemented a Rotational Management Plan accompanied by a 30% harvest target that when met would trigger in-season emergency management actions to ensure areas are not overfished and rebuilding continues. The combination of conservation measures appears to be effective as demonstrated by 605,224 meat pounds being landed in 2014 valued at \$7.7 million, a fifteen-fold increase in landings and an almost twenty one-fold increase in value from 2005, while the fishery has experienced a significant increase in active participation in recent years.

This season was undertaken with the understanding that the length of the season likely far exceeds what the resource can sustain, and that the Department may need to use emergency rule-making authority during the season to prevent overfishing. The industry, through the Scallop Advisory Council, requested that the Department provide the fishing opportunity up front, and make adjustments in-season as necessary. The Department was willing to take this approach in part because this fishery is prosecuted in the winter months, and proposing a very limited season could create an incentive to fish in unsafe conditions. The

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Department emphasized that it will take action to continue to rebuild the scallop resource, as well as provide stability and predictability for the industry into the future. Therefore, the DMR expanded the trigger mechanism to the entire fishery in order to move towards a more sustainable harvest of the resource statewide so that when data indicate that 30% of the harvestable biomass has been removed from an area, it will be closed early via emergency action in order to ensure that the resource has the ability to replace what has been removed and continue to rebuild. Such action will ensure continued progress towards the goal of a sustainable, rebuilt fishery.

The Department seeks to take rule-making action to close the following targeted areas: Gouldsboro and Dyer Bays, Wohoa Bay and Jonesport Reach and Inner Machias Rotational Area. Based on direct input from Marine Patrol and independent industry participants, the level of fishing effort in these discrete areas during the fishing season has likely exceeded the 30% removal target that ensures the fishery continues to rebuild. Continued fishing threatens future recruitment of sublegal "seed" scallops in these areas and remaining broodstock scallops that are needed for successful spawning.

Fiscal impact of rule:

Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6171(3)
Chapter number/title: Ch. 45, Shrimp: 45.05, Shrimp Season Closure (moratorium)
Filing number: 2015-247
Effective date: 12/11/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

In November 2014, the Atlantic States Marine Fisheries Commission (ASMFC)'s Northern Shrimp Section approved a moratorium for the 2015 commercial fishery in response to the 2014 Stock Status Report, indicating record low fishable biomass.

On December 7, 2015, the Section met to review the 2015 stock status update, receive Advisory Panel input, and set fishery specifications for the 2016 fishing season. In developing the 2015 stock status update, the Northern Shrimp Technical Committee (NSTC) evaluated a suite of indicators including fishery performance, survey indices of abundance and biomass, and environmental conditions. Abundance and biomass indices for 2012-2015 were the lowest on record of the thirty-two year time series. Recruitment indices for the 2010-2014 year classes were also well below average, and included the three smallest year classes on record. As a result, the indices of fishable biomass from 2013-2015 are the lowest on record. The recruitment index increased slightly in the 2014 survey (2013 year class), however, in 2015 the index dropped to the lowest in the time series. Recruits of the 2013 and 2014 year classes are not expected to reach exploitable size until 2017 and 2018, respectively. Despite the marginal increase in the recruitment index in 2014, the population continues to meet the criteria defining a collapsed stock.

At the December 7th meeting, a motion was passed to approve a moratorium for the 2016 shrimp fishery. This emergency rulemaking is necessary for the timely implementation of a closure in order to conserve the shrimp fishery from unusual damage that would be caused by any fishing effort. As authorized by 12 M.R.S §6171 (3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

Basis statement:

In November 2014, the Atlantic States Marine Fisheries Commission (ASMFC)'s Northern Shrimp Section approved a moratorium for the 2015 commercial fishery in response to the 2014 Stock Status Report, indicating record low fishable biomass.

On December 7, 2015, the Section met to review the 2015 stock status update, receive Advisory Panel input, and set fishery specifications for the 2016 fishing season. In developing the 2015 stock status update, the Northern Shrimp Technical Committee (NSTC) evaluated a suite of indicators including fishery performance, survey indices of abundance and biomass, and environmental conditions. Abundance and biomass indices for 2012-2015 were the lowest on record of the thirty-two year time series. Recruitment indices for the 2010-2014 year classes were also well below average, and included the three smallest year classes on record. As a result, the indices of fishable biomass from 2013-2015 are the lowest on record. The recruitment index increased slightly in the 2014 survey (2013 year class), however, in 2015 the index dropped to the lowest in the time series. Recruits of the 2013 and 2014 year classes are not expected to reach exploitable size until 2017 and 2018, respectively. Despite the

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marginal increase in the recruitment index in 2014, the population continues to meet the criteria defining a collapsed stock.

At the December 7th meeting, a motion was passed to approve a moratorium for the 2016 shrimp fishery. This emergency rule-making is necessary for the timely implementation of a closure in order to conserve the shrimp fishery from unusual damage that would be caused by any fishing effort. As authorized by 12 MRS §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

Fiscal impact of rule:

Enforcement of the regulation would not require measurable additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 5052, 5053, 5078, 5083
Chapter number/title: **Ch. 420**, Nursing Home Care Insurance and Long Term Care Insurance
Filing number: **2015-051**
Effective date: 3/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments implement 2013 PL c. 278.

Basis statement:

Pursuant to the April 3, 2014, "Notice of Rule-making", Superintendent of Insurance Eric Cioppa held a public hearing on April 29, 2014, at the Department of Professional and Financial Regulation building, 76 Northern Avenue, Gardiner, Maine. The public comment period was held open until May 12, 2014 at 4:30 p.m. The purposes of the amendments are to implement PL 2013 c. 278 by establishing claims practice standards for long-term care insurers as well as appeal processes for adverse benefit determinations regarding long-term care insurance. Other minor changes were also proposed.

After reviewing the initial round of public comments, the Superintendent proposed revisions that were determined to be substantially different from the amendments initially proposed, so the comment period was reopened pursuant to 5 MRS §8052(5)(B). Pursuant to notice dated October 7, 2014, the Superintendent published the revised proposed amendments and reopened the comment period for the limited purpose of providing opportunity for further comment on proposed Sections 10 and 11 of Rule 420 and Sections 32 and 33 of Rule 425. The reopened comment period was held open until October 31, 2014 at 4:30 p.m.

Amendments to rule Ch. 420 are authorized by 24-A MRS §§ 212, 5052, 5053, 5078, and 5083. Amendments to rule Ch. 425 are authorized by 24-A MRS §§ 2316 and 2321 and by 24-MRS §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, and 5083.

Fiscal impact of rule:

The rule is not expected to have a fiscal impact on state government.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 5052, 5053, 5078, 5083
Chapter number/title: **Ch. 425**, Long Term Care Insurance
Filing number: **2015-052**
Effective date: 3/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments implement 2013 PL c. 278.

Basis statement:

Pursuant to the April 3, 2014, "Notice of Rule-making", Superintendent of Insurance Eric Cioppa held a public hearing on April 29, 2014, at the Department of Professional and Financial Regulation building, 76 Northern Avenue, Gardiner, Maine. The public comment period was held open until May 12, 2014 at 4:30 p.m. The purposes of the amendments are to implement PL 2013 c. 278 by establishing claims practice standards for long-term care insurers as well as appeal processes for adverse benefit determinations regarding long-term care insurance. Other minor changes were also proposed.

After reviewing the initial round of public comments, the Superintendent proposed revisions that were determined to be substantially different from the amendments initially proposed, so the comment period was reopened pursuant to 5 MRS §8052(5)(B). Pursuant to notice dated October 7, 2014, the Superintendent published the revised proposed amendments and reopened the comment period for the limited purpose of providing opportunity for further comment on proposed Sections 10 and 11 of Rule 420 and Sections 32 and 33 of Rule 425. The reopened comment period was held open until October 31, 2014 at 4:30 p.m.

Amendments to rule Ch. 420 are authorized by 24-A MRS §§ 212, 5052, 5053, 5078, and 5083. Amendments to rule Ch. 425 are authorized by 24-A MRS §§ 2316 and 2321 and by 24-MRS §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, and 5083.

Fiscal impact of rule:

The rule is not expected to have a fiscal impact on state government.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2517
Chapter number/title: **Ch. 917**, Annuity Suitability
Filing number: **2015-091**
Effective date: 11/01/2015 -- deferred effective date
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments revise suitability standards and producer training requirements with respect to annuity recommendations made by insurance producers or companies. The amendments reflect 2010 changes to the National Association of Insurance Commissioners' (NAIC) *Suitability in Annuity Transactions Model Regulation*. They are adopted in light of the Harkins-Meek Amendment to the *Dodd-Frank Act*. The Harkins-Meek amendment to Dodd-Frank provides a "safe harbor" from treatment of equity-indexed annuities as federal securities subject to SEC Rule 151A in jurisdictions which have adopted the NAIC Model Regulation as amended in 2010. Current Bureau of Insurance rule Ch. 917 is an earlier version of the NAIC Model

Basis statement:

Maine Insurance rule Ch. 917, *Annuity Disclosure*, was originally adopted by the Superintendent of Insurance effective July 1, 2007. The purpose of the rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

The amendments revise suitability standards and producer training requirements with respect to annuity recommendations made by insurance producers of companies. The amendments reflect 2010 changes to the National Association of Insurance Commissioners' (NAIC) *Suitability in Annuity Transactions Model Regulation*. They are adopted in light of the Harkins-Meek Amendment to the *Dodd-Frank Act*. The Harkins-Meek amendment to Dodd-Frank provides a "safe harbor" from treatment of equity-indexed annuities as federal securities subject to SEC rule 151A in jurisdictions which have adopted the NAIC Model Regulation as amended in 2010. Current Bureau of Insurance rule Ch. 917 is an earlier version of that Model.

Fiscal impact of rule:

None

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial
Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2151-B
Chapter number/title: **Ch. 915**, Annuity Disclosure
Filing number: **2015-103**
Effective date: 5/31/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments update the current rule to incorporate new National Association of Insurance Commissioners' (NAIC) *Annuity Disclosure Model Regulation* requirements relating to annuity illustrations and recordkeeping relating to disclosures as well as to repeal the required use of an outdated *NAIC Annuity Buyer's Guide* in favor of current versions of NAIC Buyer's Guides.

Basis statement:

Maine Insurance rule Ch. 915, *Annuity Disclosure*, was originally adopted by the Superintendent of Insurance effective April 1, 2004. The purpose of the rule is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. This rule is based on the model regulation promulgated by the National Association of Insurance Commissioners ("NAIC"), and the Superintendent is revising Rule 915 to reflect changes made to the NAIC model. Specifically, the amended rule adds two new sections, "Standards for Annuity Illustrations" and "Recordkeeping", and provides for an Annuity Illustration Example in the Appendix. Miscellaneous corrections and clarifications have also been made.

Fiscal impact of rule:

None

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2186
Chapter number/title: **Ch. 920**, Reporting of Fraudulent Insurance Acts
Filing number: **2015-228**
Effective date: 11/25/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To update the existing rule to address ambiguities and to allow the Superintendent to amend the reporting form.

Basis statement:

Rule 920 was originally adopted in 1999 pursuant to 24-A MRS §2184(4) which requires insurers to file with the Superintendent of Insurance annual reports relating to fraudulent acts which the insurer knew or reasonably believed had been committed during the preceding calendar year. The statute required the Superintendent to establish by rule the information that must be reported. When originally adopted, Rule 920 contained the reporting form to be used by insurers embedded in the Rule itself. The primary purpose of this amendment is to remove the form from the body of the Rule and to provide that the reporting form will be in the form and manner prescribed by the Superintendent. This allows possible future changes in the form at the discretion of the Superintendent. The amendment also clarifies that the report is to be filed by all insurers licensed to do business in Maine, resolving any ambiguity on this issue contained in the original Rule.

Fiscal impact of rule:

None

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 222, 410, 412, 413, 421, 422, 731-B; 39-A MRS §403
Chapter number/title: **Ch. 730**, Standards for Acceptance of Reinsurance of Workers' Compensation Self-Insurance
Filing number: **2015-241**
Effective date: 12/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To update the current rule to conform to generally accepted standards applicable to insurers and reinsurers.

Basis statement / Purpose and scope:

The purpose of this rule is to set standards and procedures for insurers and reinsurers to become eligible to accept reinsurance for self-insured workers' compensation in Maine. This rule does not apply to reinsurance accounts approved by the Superintendent pursuant to Title 39-A MRS §403(4-A) and accepting reinsurance only from their member group self-insurers.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 501**, Definitions

Filing number: **2015-210**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with either "Program" or "Director." In addition, the term "Program" was added to the list of defined terms.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 503**, Variances

Filing number: **2015-211**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. This chapter was amended by changing the "Department" reference to "Program," which is now a defined term in Ch. 501. The rule should refer to the specific Program rather than the larger Department in setting forth the Program's administrative process for variance petitions.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 507**, Advisory Rulings

Filing number: **2015-212**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 511**, National Codes Applicable to Elevators and Tramways

Filing number: **2015-213**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation ("OPOR"). Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

This chapter was also amended by updating the national code editions incorporated by reference. A prime consideration in updating the code editions is that doing so will allow owners to incorporate newer, more efficient technologies into elevator and tramways installations and operations. Prior to amending this chapter, the referenced codes had not been updated since rulemaking in 2008 and were out-of-date. As a result, applicants who sought to utilize the latest technologies had to submit to the Chief Inspector a petition for a variance to the out-of-date codes referenced in the rule. Petitioning for a variance is a process that costs both time and money to owners. Technical staff must also take time to review and evaluate the petitions, and the number of petitions has increased in recent years. With the amended rule, owners who wish to utilize newer technologies that are now covered by the updated code editions will no longer need to petition for a variance.

The following are notable amendments to the referenced codes. Section 3(A) previously included an exception on Limited Use, Limited Accessibility ("LULA") elevators. This exception set forth an additional safety measure that was not found in the national code at the time. Now, the updated code does have this standard, and therefore, an exception in rule is no longer necessary.

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Also in Section 3(A), an exception has been added in order to clarify the requirements for documenting periodic tests because the updated edition of ASME 17.1 includes a reference to test documentation requirements in Section 8.11.1.1.2(b). This code section requires that an inspector submit a written report to the State because the code also requires that an inspector be present for all periodic tests. However, the prior Board previously adopted an exception to the code requirement that periodic tests be performed in the presence of an inspector. The exception adopted by the prior Board provides that an inspector is not required to be present at periodic tests performed by a licensed mechanic and that the mechanic completes required test documentation (see Section 3(A)(3), unchanged from the previous rules). Because Maine requires elevator mechanics to be licensed, and licensure is based on meeting certain experience and examination requirements, the additional requirement of having an inspector present for all periodic tests is unnecessary, particularly when having an inspector present comes at an additional cost to elevator owners. Therefore, due to the exception previously set forth by the prior Board and the longstanding practice of elevator mechanics in Maine as a result of that exception, the amended rule sets forth an exception to ASME 17.1, Section 8.11.1.1.2(b). This exception further clarifies that it is the responsibility of licensed mechanics performing the periodic tests to meet the documentation requirements set forth in the code, not inspectors.

In Section 3(A) and 3(B), standards pertaining to aramid fiber ropes for elevators were not adopted. Technical staff has encountered several failed attempts to use aramid fiber ropes safely and therefore has concluded that the safety concerns associated with the use of aramid fiber ropes outweigh any positive benefits. Other states' regulations have done the same.

Other exceptions have been struck from the rule because the exceptions have been incorporated into the updated code editions. Therefore, the exceptions are no longer necessary.

Lastly, references to Vertical Reciprocating Conveyors ("VRCs") were removed from this chapter in order to correct an oversight from a previous rulemaking. In the previous rulemaking, the Board at the time sought to regulate VRCs but was unable to proceed in adopting a rule chapter on VRCs because the statutory definition of an elevator does not include a conveyor. Despite the fact that the rule chapter on VRCs was not adopted and VRCs have never been regulated, the Board neglected to remove all references to VRCs from other rule chapters.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 513**, Elevators

Filing number: **2015-214**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter had to be amended.

In Section 1, the references to "Board" were removed and replaced with references to "Chief Inspector." Under 32 MRS §15224, plans and specifications for new elevator installations or alterations must be submitted to, and approved by, the Chief Inspector. Accordingly, it is appropriate for the Chief Inspector to be the one that provides the form for approval.

Also, the initial certificate fee requirement was removed from Section 1(A). This section sets forth what an elevator owner must submit to the Chief Inspector before installing a new elevator, and the initial certificate fee is not necessary at this stage. Rather, this fee is collected after the initial inspection of the installed elevator, which is already addressed in Ch. 521.

In addition, the reference to Vertical Reciprocating Conveyors (UVRCs") was removed from Section 2 of this chapter in order to correct an oversight from a previous rulemaking. In the previous rulemaking, the Board at the time sought to regulate VRCs but was unable to proceed in adopting a rule chapter on VRCs because the statutory definition of an elevator does not include a conveyor. Despite the fact that the rule chapter on VRCs was not adopted and VRCs have never been regulated, the Board neglected to remove all references to VRCs from other rule chapters.

Other minor revisions were also made to reorganize, update, and clarify the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 515**, Tramways

Filing number: **2015-215**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter had to be amended.

In Section 1 (A)(2), the reference to "Board" was removed and replaced with a reference to "Chief Inspector." Under 32 MRS §15224, plans and specifications for new tramway installations or alterations must be submitted to, and approved by, the Chief Inspector. Accordingly, it is appropriate for the Chief Inspector to be the one that provides the form for approval.

In addition, the initial certificate fee requirement was removed from Section 1(A). This section sets forth what a tramway owner must submit to the Chief Inspector before installing a new tramway, and the initial certificate fee is not necessary at this stage. Rather, this fee is collected after the initial inspection of the installed tramway, which is already addressed in Ch. 523.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 521**, Elevator Owners’ Duties and Responsibilities

Filing number: **2015-216**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

This chapter was also amended by changing when an elevator owner must apply for a new inspection certificate in Section 2(B). Previously, an owner had to apply no later than 30 business days before the current inspection certificate expired. As amended, an owner now must apply no later than 30 days before the current inspection certificate expires. This change provides a clearer guideline for both owners and Program staff, eliminating the need to calculate business days. In effect, the change also provides elevator owners with more time to apply for inspection certificates.

Other minor revisions were also made to update, streamline, and clarify the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 523**, Tramway Owners’ Duties and Responsibilities

Filing number: **2015-217**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

In addition, Section 1 was reorganized to clarify the tramway inspection requirements. The content of this section was not changed.

This chapter was also amended by changing when a tramway owner must apply for a new inspection certificate in Section 3(B). Previously, an owner had to apply no later than 30 business days before the current inspection certificate expired. As amended, an owner now must apply no later than 30 days before the current inspection certificate expires. This change provides a clearer guideline for both owners and Program staff, eliminating the need to calculate business days. In effect, the change also provides tramway owners with more time to apply for inspection certificates.

Other minor revisions were also made to update, streamline, and clarify the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 531**, Licensed Private Elevator Inspectors

Filing number: **2015-218**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

In addition, this chapter was amended by updating Section 2(A) in order to bring the rule in line with the current ASME QEI-1 standard. Previously, the rule required that an applicant for a private elevator inspector license had to be certified as a Qualified Elevator Inspector ("QEI") by an organization accredited by the ASME Qualification of Inspectors Committee. However, ASME no longer provides the accreditation standards. Based on ASME QEI-1 - 2013: "Standards for the Qualification of Elevator Inspectors," the amended rule now requires an applicant to be certified as a QEI by an organization accredited by an independent, internationally or nationally recognized organization that accredits personnel certification bodies to ANSI/ISOIEC 17024 or its equivalent and ASME QEI-1.

Other minor revisions were also made to update and clarify the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 533**, Licensed Private Tramway Inspectors

Filing number: **2015-219**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director." Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 535**, Licensed Wire Rope Inspectors

Filing number: **2015-220**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director." Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 537**, Licensed Elevator Mechanics

Filing number: **2015-221**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 539**, Licensed Lift Mechanics

Filing number: **2015-222**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Other minor revisions were also made to correct errors in formatting and references, and to update the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 541**, Elevator Contractors

Filing number: **2015-223**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Director."

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Real Estate Appraisers
Umbrella-Unit: **02-298**
Statutory authority: 32 MRS §14012(3)
Chapter number/title: **Ch. 240**, Standards of Professional Practice
Filing number: **2015-245**
Effective date: 1/1/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Upcoming publication of an updated edition of the *Uniform Standards of Professional Appraisal Practice* ("USPAP") for 2016-17.

Basis statement:

Title 32 MRS §14012(3) authorizes the board to establish standards of practice for licensed real estate appraisers, and 32 MRS §14028 requires licensees to comply with the *Uniform Standards of Professional Appraisal Practice* (UUSPAP") promulgated by the Appraisal Standards Board of the Appraisal Foundation. Federal law also requires compliance with USPAP for real estate appraisals in federally related transactions. See 12 use §§ 3336, 3339.

The rule amendment designates the 2016-17 edition of USPAP as the standards of practice for Maine-licensed real estate appraisers, which go into effect beginning January 1, 2016.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**
Umbrella-Unit: **02-313**
Statutory authority: PL 2014 ch. 575 of the 126th Maine Legislature (Second Regular Session (LD 1230); 32 MRS §1073 (2))
Chapter number/title: **Ch. 17**, Requirements for Establishing a Board Approved Dental Hygiene Therapy Program
Filing number: **2015-116**
Effective date: 6/29/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2014 ch. 575 of the 126th Legislature (Second Regular Session), which requires the Board to adopt rules by January 1, 2015, setting the requirements for dental hygiene therapy education programs until such a time that dental hygiene therapy programs are accredited by the Commission on Dental Accreditation. The rule, which is based on national models, outlines the minimum standards the Board will use to approve a dental hygiene therapy educational program. The standards include the resources an educational institution must demonstrate to ensure that the program has the administrative, financial and clinical support to ensure student competencies upon successful completion of the program. The Board convened an ad hoc committee in accordance with the consultation requirements outlined in the legislation, which included dental hygiene educators and a dental educator from two of Maine's postsecondary educational institutions. The *ad hoc* committee recommended the minimum standards contained in this rule to establish a balance between protecting the public and providing opportunities to access educational programs that would meet the competency standards in the emerging practice of dental hygiene therapy.

Basis statement:

This new chapter outlines the requirements for a dental hygiene therapy education program that meets the licensure requirements pursuant to 32 MRS §1094-AA(2)(D) until such a time that dental hygiene therapy programs are accredited by the Commission on Dental Accreditation. The rule, which is based on national models and other state licensure regulations, outlines the minimum standards the Board will use to approve a dental hygiene therapy educational program. The standards include the resources an educational institution must demonstrate to ensure that the program has the administrative, financial and clinical support to ensure student competencies upon successful completion of the program.

Fiscal impact of rule:

N/A

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**

Umbrella-Unit: **02-313**

Statutory authority: Public Law 2015 ch. 192 of the 127th Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2))

Chapter number/title: **Ch. 16**, Rules for Independent Practice Dental Hygienists to Process Dental Radiographs

Filing number: **2015-238**

Effective date: 12/5/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session), which requires the Board to adopt rules setting the practice standards for Independent Practice Dental Hygienists to expose and process dental radiographs as part of their established scope of practice. The existing rule allowed Independent Practice Dental Hygienists to process radiographs, but only under a pilot program, which expired on March 13, 2015. This amendment removes the pilot program language, the reporting and inspection requirements, the exposure and findings form, as well as the geographic restrictions. It retains the protocols established in the prior adoption of the rule with regard to written agreements and referral protocols.

Basis statement:

This amendment sets the practice standards for Independent Practice Dental Hygienists to expose and process dental radiographs as part of their established scope of practice. The existing rule allowed Independent Practice Dental Hygienists to process radiographs, but only under a pilot program, which expired on March 13, 2015. This amendment removes the pilot program language, the reporting and inspection requirements, the exposure and findings form, as well as the geographic restrictions. It retains the protocols established in the prior adoption of the rule with regard to written agreements and referral protocols.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**
Umbrella-Unit: **02-313**
Statutory authority: Public Law 2015 ch. 192 of the 12ih Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2)
Chapter number/title: **Ch. 5**, Requirements for Licensure as a Denturist
Filing number: **2015-244**
Effective date: 12/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session), which allows the Board of Dental Examiners to issue a permit to a denturist student for the purpose of performing limited denturist services in order to meet the clinical requirements of a board-approved denturism educational program. The amendment outlines the requirements for an individual seeking a denturist externship permit.

Basis statement:

The Maine Board of Dental Examiners [Board] is charged by the Legislature with the regulation of dentists, dental hygienists, dental hygiene therapists, dental denturists, dental radiographers, and expanded function dental assistants in the State of Maine in order to protect the public. In order to accomplish its mission of regulating these professions and protecting the public, the Legislature granted the Board the authority to create rules.

The genesis of the current rule making proceedings was the passage of Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session, LD 1009), which authorized the Board to issue a permit to a denturist student to perform limited denturist services. The Board formally proposed the new rule on July 17, 2015. Pursuant to Executive Order 2014-002, effective April 14, 2014, the proposed rule revisions were forwarded to the Commissioner of the Department of Professional and Financial Regulation, who subsequently approved them for rule-making on June 24, 2015. On July 27th, the proposed rule was forwarded to the Office of the Governor pursuant to Executive Order 20 FY 11/12, effective August 24, 2011. On August 3, 2015, the Board received approval from the Office of the Governor to publish the proposed rule revisions for public review and comment. On August 18, 2015, the Maine Board of Dental Examiners forwarded the proposed rule packet (which included a signed approval from the Commissioner of Professional and Financial Regulation, and the Office of the Governor) to the Secretary of State's Office for publishing in the newspapers and online. The notice appeared in the newspapers and online on August 26, 2015. In accordance with 5 MRS §8053(2), the Board held a rule-making hearing on the proposed rules on September 18, 2015, with an established deadline of September 28, 2015, for the submission of written comments. On October 16, 2015, the Board reviewed the verbal and written comments submitted regarding the proposed rule revisions.

Fiscal impact of rule:

N/A

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §5506(4)
Chapter number/title: **Ch. 10**, Definitions
Filing number: **2015-033**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to update and streamline the rules overall. The board has never utilized the dictionary referenced in this chapter and there is no longer a print version of the dictionary.

Basis statement:

This chapter was repealed because it references a dictionary that the board has never used and there is no longer a print version of the dictionary. Any term that may require a definition can be defined in the text of the particular rule that references the term. Repealing this chapter serves to update and streamline the rules.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(1), (2); 5514(2)
Chapter number/title: **Ch. 40**, Qualifications for Intern Forester License
Filing number: **2015-034**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all qualifications for intern forester licensure into one chapter.

Basis statement:

This chapter was repealed and replaced in order to reorganize and consolidate the qualifications for intern forester licensure. The concepts in former Ch. 40 of the board's rules have been combined with the concepts in former Ch. 50, which addressed the variance from educational qualifications for issuance of an intern forester license. As a result, New Ch. 40 sets forth, in one place, all qualifications for an intern forester license, both as a degree candidate and as a variance candidate.

In consolidating rules, minor changes were made to the rules set forth in former Ch. 40. First, the sources have been updated for the list of accredited education programs and the approval standards for non-approved educational programs. Second, the rules now refer applicants to the direct source online for a list of accredited education programs and for the approval standards for non-approved educational programs. Previously, the rule referred applicants to both the direct source and the board. Referral to the board is unnecessary because board staff merely checks the direct sources when an inquiry is received; the board does not maintain this information.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters

Umbrella-Unit: **02-333**

Statutory authority: 32 MRS §§ 5506(1), (2), 5514(2)

Chapter number/title: **Ch. 50**, Variance from Educational Qualifications for Issuance of an Intern Forester License

Filing number: **2015-035**

Effective date: 4/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all qualifications for intern forester licensure into one chapter.

Basis statement:

This chapter was repealed in order to reorganize and consolidate the qualifications for intern forester licensure. The concepts in former Ch. 50 of the board's rules have been combined with the concepts in former Ch. 40, which addressed the educational qualifications for issuance of an intern forester license. As a result, New Ch. 40 sets forth, in one place, all qualifications for an intern forester license, both as a degree candidate and as a variance candidate.

In consolidating rules, some changes were made to the rules set forth in former Ch. 50. First, in former Ch. 50, there was a section pertaining to the recognition of physical labor in an applicant's work experience. The board determined that this provision was unnecessary because physical labor is inherent in all four subject areas outlined in the subsection on nature and duration of work experience, and therefore, physical labor is already included in the work experience analysis.

Second, former Ch. 50 required an employment resume for documentation of an applicant's work experience. New Ch. 40 has eliminated the employment resume requirement because the application will ask for the same information. There is no need for an applicant to provide the same information in two places.

Third, new Ch. 40 requires that supplemental forestry education consist only of Category 1, Category 2, and Post-secondary course-work. Former Ch. 50 provided an additional Category 3 and Category 4. The board determined that it was preferable to have supplemental forestry education consist only of Category 1, Category 2, and Post-secondary course-work because these categories consist of activities that are akin to organized learning in an academic setting.

Finally, former Ch. 50 required an original, sealed transcript for documentation of an applicant's supplemental forestry education. New Ch. 40 has eliminated the requirement that the transcript be original and sealed because doing so complies with the policy of the Office of Professional and Occupational Regulation to remove barriers to online licensing applications.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)
Chapter number/title: **Ch. 60**, Sponsorship of Intern Foresters
Filing number: **2015-036**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all requirements for forester licensure into a single chapter and to implement some of the new and amended statutory provisions on forester licensing standards that will go into effect on April 1, 2015 through PL 2013, c. 527.

Basis statement:

This chapter was repealed in order to reorganize and consolidate the qualifications for forester licensure. The concepts in former Ch. 60 of the board's rules have been combined with former Ch. 70 on licensure as forester. Former Ch. 60 outlined what is required during the internship in order for a licensed intern forester to qualify for a forester license, and therefore, has been incorporated into a single chapter on obtaining forester licensure. The result of combining the rules of both chapters is new Ch. 70, which now sets forth, in one place, all requirements and qualifications for a forester license.

In consolidating rules, some changes were made to the rules set forth in former Ch. 60. First, language on the nature of work experience required for forester licensure was taken from former Ch. 60 and modified so that it applies to all pathways to licensure. The requirement should be the same for all pathways. In addition, the requirement in former Ch. 60 that each of the four subject areas must ordinarily account for no less than 10% of the work experience was not carried over to new Ch. 70. New Ch. 70, as proposed, used the following language: "Each of the four subject areas must be substantially represented in the applicant's work history." The board found that the substantially represented standard was preferable to the 10% standard because of the difficulty in determining what constitutes a particular percentage. Additionally, using the substantially represented standard provided consistency throughout the rules because that standard was already in rule for evaluating the work experience of an applicant seeking an intern forester license through the variance pathway. As explained in the Response to Comments section for Ch. 70, the board adopted the proposed rule with a slight change to this standard.

Second, language was added to the full time equivalency and internship log requirements of former Ch. 60 in order to account for the statutory change that now allows degree candidates to earn forestry experience toward the internship requirement prior to obtaining an intern forester license. In addition, language that addresses the requirement of three references was eliminated because this requirement was removed from the statute.

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Finally, the subsection in former Ch. 60 pertaining to sponsor reports during the internship was not carried over to new Ch. 70 because the board found it to be unnecessary, as no reports have been filed consistent with this provision.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Board of Licensure of Foresters**
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)
Chapter number/title: **Ch. 70**, Qualifications for Forester License
Filing number: **2015-037**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all requirements for forester licensure into a single chapter and to implement some of the new and amended statutory provisions on forester licensing standards that will go into effect on April 1, 2015 through PL 2013, c. 527.

Basis statement:

This chapter was repealed and replaced in order to reorganize and consolidate the qualifications for forester licensure. Former Ch. 70 of the board's rules has been combined with the concepts in former Ch. 60. The result of combining the concepts of these two chapters is New Ch. 70, which now sets forth, in one place, all the requirements and qualifications for a forester license.

New Ch. 70 is comprised of four sections: (1) educational requirement; (2) work experience requirement; (3) examination requirement; and (4) four pathways to licensure.

The four pathways to licensure set forth in section 4 are as follows: (1) applicants with lawful forestry experience as an intern forester; (2) applicants with lawful forestry experience in another jurisdiction; (3) applicants with lawful forestry experience as an employee of the federal government; and (4) applicants who are licensed in another jurisdiction.

Subsection 1 on applicants with lawful forestry experience as an intern forester incorporates the sponsorship requirements for an intern forester that were set forth in former Ch. 60, as well as statutory changes to the internship found in 32 MRS §5515(3). Subsection 2 on applicants with lawful forestry experience in another jurisdiction is authorized by 32 MRS §5515(5). Subsection 3 on applicants with lawful forestry experience as an employee of the federal government is authorized by 32 MRS §5515(5-A).

Subsection 4 on applicants who are licensed in another jurisdiction is authorized by 32 MRS §5516(2). The board determined that an applicant licensed in another jurisdiction need only take and pass Part 1 of the exam (the Maine-specific portion). With this requirement, an applicant will not encounter any unnecessary barriers to licensure but will still need to be educated and tested on Maine-specific forestry practice.

None of the language from former Ch. 70 has been incorporated into New Ch. 70. Former Ch. 70 addressed the forester examination and the requirement of three references. New language now addresses the forester examination and the three references requirement has been eliminated from the statute.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(4),5514(4); 5515(7)
Chapter number/title: **Ch.80**, Continuing Forestry Education
Filing number: **2015-038**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to clarify and update the rules by adjusting the nature and amount of continuing education hours, adopting the auditing process set forth in the rules of the Office of Professional and Occupational Regulation, and removing the continuing education requirement for a licensee's first renewal.

Basis statement:

This chapter was amended by adjusting the nature and amount of continuing education hours, adopting the auditing process set forth in the rules of the Office of Professional and Occupational Regulation, removing the continuing education requirement for a licensee's first renewal, and making a minor grammatical change to the section on optional pre-approval. The amendments serve to update and clarify the rules.

First, the board sought to bring more clarity to the continuing education requirement by requiring 6 hours of continuing education during the preceding license term, to coincide with the annual license renewal, instead of 12 hours during the two year period ending on December 31 of each even-numbered year.

Second, the board replaced section 3 on reporting and documentation with section 3-A on the auditing process, which is set forth in Ch. 13 of the rules of the Office of Professional and Occupational Regulation. The auditing process verifies compliance with continuing education requirements, and the new rule will require a licensee to certify to completion of continuing education hours when submitting an application for license renewal. That certification is then subject to audit.

Third, the board has added section 4-A, which will serve to exempt licensees from having to complete continuing education for their first license renewal. This exemption is consistent with a long-standing board practice.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §5506(4)
Chapter number/title: **Ch. 110**, Transition Provisions
Filing number: **2015-039**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to update and streamline the rules.

Basis statement:

This chapter was repealed because it was used to implement the transition provision of PL 2001, c. 261 §6 and is no longer applicable. Repealing this chapter serves to update the rules.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure in Medicine
Umbrella-Unit: **02-373**
Statutory authority: 10 MRS §8003-E; 32 MRS §3269(7)
Chapter number/title: **Ch. 4**, Rules Regarding the Issuance of Citations
Filing number: **2015-021**
Effective date: 3/10/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Ch. 4 lists the violations for which a citation and administrative fine may be issued, describes the licensee's right to request a hearing, and describes the time and manner in which the fine must be paid. Section 2 specifies the Board may issue a complaint charging unprofessional conduct and states that administrative fines are not reportable to any databanks. The proposed amendment includes additional bases for issuing citations.

Basis statement:

The previous version of Ch. 4, which was adopted in August 2009, identified the violations for which a citation and administrative fine might be issued by the Board, described the licensee's right to request a hearing before the Board, described the time and manner in which the fine must be paid, and stated that administrative fines were not reportable to any databanks. The present version of Ch. 4 clarifies the administrative process regarding the issuance of citations, permits the Board to issue a complaint in addition to issuing citations, and expands the circumstances under which citations could be issued to include:

- Failure to report the existence of an outstanding complaint on a license application, license renewal application or any document provided to the Board;
- Failure to provide a response to the notice of complaint within the statutorily specified thirty (30) days from notice or within the timeframe specified by issuance of an extension of response as granted by Board staff;
- Failure to provide an accurate answer to any questions on any Board application;
- Failure to submit a complete application for licensure within fourteen (14) days from issuance of an emergency license, unless a waiver has been granted; and
- Failure to meet continuing medical education (CME) requirements at license renewal as confirmed by random audit.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine State Board of Nursing**
Umbrella-Unit: **02-380**
Statutory authority: 32 MRS §2153-A(1)
Chapter number/title: **Ch. 4**, Disciplinary Action and Violations of Law
Filing number: **2015-049**
Effective date: 3/25/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for the change is to update the language in the rule, Ch. 4, to reflect the statutory change (PL 105 May 20, 2013).

Basis statement:

This filing updates the language in the rule, Ch. 4, to reflect the statutory change (PL 105 May 20, 2013).

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085
Chapter number/title: **Ch. 820**, Definitions
Filing number: **2015-158**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To add a new definition to the rule, to update and make minor revisions to the rule, and to allow the use of two-story modular homes in communities.

Basis statement:

This chapter was amended in order to make the following changes: to add "Licensee" as a definition; to revise the definition of "Manufactured Home" to allow for the use of two-story modular homes in communities as long as the homes do not exceed 16 feet in width measured at any floor, which may attract more residents to manufactured housing communities; and to make other minor revisions to update and clarify the rule chapter.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085
Chapter number/title: **Ch. 830**, Licensure of Manufactured Housing Communities
Filing number: **2015-159**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To add email address to the required application material, to remove a grandfather provision, to clarify other language, and to update and make other minor revisions.

Basis statement:

This chapter was amended by adjusting the application and renewal process in an effort to update and streamline these processes. Specifically, requiring an email address is intended to increase avenues of communication with licensees and to allow for online license application/renewal and email renewal reminders.

In addition, this chapter was amended by correcting and clarifying language pertaining to the license fee requirement for a change in ownership. Under the Board's statute, a manufactured housing community must submit an application with a license fee upon a change in ownership (see 10 MRS §§ 9083 and 9021(2-A)). In the previous rule, however, the language was not clear that a license fee was required, making the requirement difficult to enforce.

The Board made other minor revisions throughout this chapter in order to update and clarify the rule, including the addition of a provision that requires change in contact information to be reported to the Board and the removal of a grandfather provision pertaining to the number of sites in a community, as this provision is no longer applicable.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board

Umbrella-Unit: **02-385**

Statutory authority: 10 MRS §§ 9005-A, 9084, 9085; 5 MRS §9001

Chapter number/title: **Ch. 840**, Rules Relating to Drinking Water Systems of
Manufactured Housing Communities

Filing number: **2015-160**

Effective date: 8/30/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The previous rules were not clear about the requirement of annual water testing of private water systems and reporting test results. Additionally, the previous rules did not address notifying community residents of the annual water test results. Therefore, the board adopted this new rule chapter to clarify the requirements for private water systems in order to ensure that the necessary water testing is being conducted and reported and that community residents are notified of test results.

Basis statement:

This chapter was adopted in order to clarify and elaborate on the rules regulating drinking water systems in manufactured housing communities, specifically the requirement of annual water testing of private water systems and the reporting of test results. The specific testing required has not changed. The previous rules, however, did not address notification of annual water test results to community residents. Thus, the Board has set forth a requirement that a community provide an annual water safety report to community residents, along with annual test results. To assist communities with this requirement, the adopted rule provides a form for this report.

This chapter also clarifies the requirements for new private systems or any expansions/upgrades/re-engineering of existing private water systems, which are regulated by the Board with the Division of Environmental Health (within DHHS) serving as a technical advisor. Other provisions include: an option for the Board to issue an Order of Conditional Operation for an existing non-compliant private water system; water quality standards for existing private water systems in active operation that are not expanding, upgrading or re-engineering; the requirement of a designated water system operator; reporting requirements; record maintenance requirements; requirements for communication and notice to consumers; an option for the board to order an engineering study for existing private waters systems with violations or deficiencies; and the ability of the board to issue an emergency order or boil water order in situations where the board finds an imminent hazard to public health.

With this chapter, the Board seeks to improve its efforts to protect the health and safety of the public, particularly community residents, from unsafe private water systems without imposing any unnecessary costs on the regulated community.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085
Chapter number/title: **Ch. 850**, Community Licensing - Standards
Filing number: **2015-161**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To move the drinking water standards from this chapter to the new Ch. 840, to correct and clarify other language, and to update the reference to the *National Electrical Code*.

Basis statement:

This chapter was amended by removing the drinking water standards and relocating those standards to a new chapter (Ch. 840).

In addition, the Board updated the reference to the *National Electrical Code*. The rule previously referenced the 2002 Code, and this has been updated to the 2014 Code, which the Maine Electricians' Examining Board has adopted.

The Board made several other clarifying language changes and minor revisions throughout the rule chapter.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085, 9086
Chapter number/title: **Ch. 860**, Inspections and Complaints
Filing number: **2015-162**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To make minor revisions and to update the rule.

Basis statement:

This chapter was amended by making minor revisions, such as capitalizing defined terms and updating the title of the agency to "Office of Professional and Occupational Regulation."

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
Radiologic Technology Board of Examiners
Umbrella-Unit: **02-465**
Statutory authority: 32 MRS §9853(6)(E)
Chapter number/title: **Ch. 8**, Scope of Practice
Filing number: **2015-206**
Effective date: 11/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To allow nuclear medicine technologists to use computed tomography for diagnostic purposes.

Basis statement:

During the 126th legislative session, stakeholders submitted a bill to allow a pathway for those licensed in nuclear medicine to learn how to fully use hybrid technology; however, the bill did not pass. The board subsequently convened a work group, the focus of which was computed tomography. The work group determined that the Board's statute allows an individual licensed as a nuclear medicine technologist to use hybrid technology, but the Board's rules do not. Thus, the work group developed an amendment to Ch. 8 of the Board's rules that expands the scope of practice for nuclear medicine technologists by allowing nuclear medicine technologists that hold a current ARRT (American Registry of Radiologic Technologists) or NMTCB (Nuclear Medicine Technology Certification Board) certification in computed tomography to use computed tomography for diagnostic purposes.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Maine Fuel Board

Umbrella-Unit: **02-658**

Statutory authority: 32 MRS §18123(2)

Chapter number/title: **Ch. 13**, Installation of Propane and Natural Gas Burning Equipment

Filing number: **2015-240**

Effective date: 12/8/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

In 2014, the board adopted Ch. 1 through 13, which repealed and replaced the rules of the former Oil and Solid Fuel Board and the Propane and Natural Gas Board. However, the board subsequently reserved rule-making on Ch. 13 Section 13.7 due to concerns raised by the regulated community about the proposed language. A subcommittee was formed to deal specifically with Section 13.7, and the subcommittee drafted language for Section 13.7 that the board accepted on February 12, 2015. With this rule, the board seeks to ensure compatibility and the safest possible installation of conversion burners when converting an appliance to propane or natural gas from another fuel source.

Basis statement:

Ch. 13 Section 13.7 sets forth requirements for installing a conversion burner to convert an appliance to propane or natural gas from another fuel source. In a previous rulemaking that concluded in 2014, the board adopted Ch. 1 through 13, which repealed and replaced the rules of the former Oil and Solid Fuel Board and Propane and Natural Gas Board. However, the board subsequently reserved rulemaking on Ch. 13 Section 13.7 due to concerns raised by the regulated community about the proposed language. The board thereafter formed the Section 13.7 Subcommittee ("subcommittee"), made up of board members and staff, fuel industry representatives, and other interested parties. The subcommittee met three times from November 2014 to January 2015. On January 12, 2015, the subcommittee voted to approve proposed language for Section 13.7. On February 12, 2015, the board voted unanimously to approve the subcommittee's proposed language and to proceed to rule-making.

The rule sets forth a number of requirements designed to ensure the safest possible conversion of an appliance to gas from another fuel source. The rule is comprised of three subsections:

Section 13.7.1, which sets forth conversion requirements where the input of the burner is 400,000 btu or less; Section 13.7.2, which sets forth conversion requirements where the input of the burner is greater than 400,000 btu; and Section 13.7.3, which sets forth oil tank requirements upon conversion to an alternative fuel.

As proposed, Section 13.7.1 provided the following requirements: the conversion burner must be a listed conversion burner; the installer must verify with the appliance manufacturer that the appliance is suitable for use with gas; and the appliance or burner manufacturer must provide installation and setup instructions

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specific to the appliance if it is designed to operate with a positive chamber pressure. In instances where the appliance manufacturer is no longer available, the proposed rule allowed an installer to use the burner selection criteria of ANSI Z21.8 and the burner manufacturer's combustion setup instructions. The installation ultimately had to conform to national codes, as referenced in the rule.

As proposed, Section 13.7.2 provided the following requirements: the conversion burner must be a listed conversion burner; the installer must verify with the appliance manufacturer that the appliance is capable of being used with gas; and the burner must be selected for use in the make and model of appliance, with the rule providing three ways in which this requirement may be met. The installation ultimately had to conform to national codes, as referenced in the rule. Section 13.7.2(4) also provided that installations 1,000,000 btu or greater had to conform to the additional codes referenced therein.

Fiscal impact of rule:

None.

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Agency name: Department of Public Safety, **Bureau of Emergency Medical Services**
Umbrella-Unit: **16-163**
Statutory authority: 32 MRS §§ 84(1), 88(2)(J), 92-A(1)
Chapter number/title: **Ch. 18**, Quality Assurance and Improvement
Filing number: **2015-006**
Effective date: 2/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The new rules chapter adopts rules regarding the authorization, requirements and operations of the Maine Emergency Medical Services (EMS) system quality assurance and improvement system.

Basis statement:

Ch. 18, *Quality Assurance and Improvement*: The rule codifies the authority, scope and requirements of Maine EMS quality assurance and improvement committees, and participation requirements of Maine EMS system providers in the quality assurance and improvement system.

Fiscal impact of rule:

County and municipal Public Safety Answering Points (PSAPs) and municipal ambulance and non-transporting services will be subject to the new rules, which would impose no significant additional requirements or resources over and above current county or municipal emergency medical services (EMS) or emergency medical dispatch (EMD) quality assurance and improvement activities

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Agency name: Department of Public Safety, **Bureau of State Police**
Umbrella-Unit: **16-222**
Statutory authority: 29-A MRS §555
Chapter number/title: **Ch. 4**, Maine Motor Carrier Safety Regulation
Filing number: **2015-096**
Effective date: 6/19/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The principal purpose of the amendment is to exempt certain intrastate-operated commercial motor vehicle from 49 CFR §390.21, which pertains to the marking of self-propelled commercial motor vehicles and intermodal equipment.

Basis statement:

The amendment exempts intrastate vehicles to which the regulation applies that have a gross vehicle weight rating of 10,000 lbs. to 26,000 lbs., and that neither meet the definition of a "bus" nor transport hazardous materials, from 49 CFR §390.21, which pertains to the marking of self-propelled commercial motor vehicles and intermodal equipment.

The amendment also makes minor, technical edits to the regulation.

Fiscal impact of rule:

The fiscal impact should be positive for those in the regulatory community that will benefit from the exemption the amendment would create.

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: 35-A MRS §§ 104, 111, 3203
Chapter number/title: **Ch. 305**, Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity
Filing number: **2015-010**
Effective date: 1/26/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to the Commission's Ch. 305 governing licensing requirements, annual reporting, enforcement, and consumer protection provisions for competitive electricity providers (CEPs). Over the last several years, there has been a significant increase in competitive activity involving residential and small commercial customers. This increased competitive activity has highlighted the need for a review of the provision of Ch. 305. Accordingly, this rulemaking focuses primarily on amendments to the consumer protection provisions of the rule, as well as other proposed changes based on our experience in implementing the rule.

Basis statement:

The factual and policy basis for this rule is set forth in the Commission's Statement of Factual and Policy Basis and Order Adopting Rule, Commission Docket No. 2000-335 issued on May 1, 2000. Order Adopting Rule and Statement of Factual and Policy Basis, Commission Docket No. 2005-608 issued on March 9, 2006 and Order Adopting and Statement of Factual and Policy Basis, Commission Docket No. 2014-214 issued January 14, 2015. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333-0018.

Fiscal impact of rule:

Minimal

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: 35-A MRS §§ 104, 111, 1301, 3203(3), 3203(4)
Chapter number/title: **Ch. 306**, Uniform Information Disclosure
Filing number: **2015-011**
Effective date: 1/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts an amended rule that adds certain provisions of the Commission's "Uniform Information Disclosure and Informational Filing" rule (Ch. 306) to the Commission's "Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity" rule (Ch. 305). Specifically, the PUC removes section 2(D) containing the requirement for the contents of the competitive electricity provider (CEP) terms of service document and section 3 containing CEP informational filing requirements. These sections are being incorporated into Ch. 305, by way of the Notice of Rulemaking, Docket No. 2014-0024.

Basis statement:

The factual and policy basis for this rule is set forth in the Commission's Statement of Factual and Policy Basis and Order Adopting Rule, Commission Docket No. 2014-00215, issued on January 14, 2015. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, ME 04333-0018.

Fiscal impact of rule:

Minimal

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: 35-A MRS §6114
Chapter number/title: **Ch. 615**, Exemptions from Regulatory Requirements for Consumer-Owned Water Utilities
Filing number: **2015-018**
Effective date: 2/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts Ch. 615, setting forth requirements and procedures related to exemptions, pursuant to 35-A M.R.S. §6114, from regulatory requirements that otherwise would apply to consumer-owned water utilities.

Basis statement / summary:

This rule establishes rules for the form, content, and procedure for granting, modifying, and rescinding exemptions from regulatory requirements before the Maine Public Utilities Commission.

Fiscal impact of rule:

None.

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: PL 2001 ch. 624, PL 2003 ch. 20, PL 2003 ch. 644, PL 2009 ch. 372, PL 2013 ch. 120, 10 MRS §§ 1411-1420, 1461-1466, 9721-9725
Chapter number/title: **Ch. 401**, Certification Program for Installers of Solar Energy Equipment in Maine
Ch. 405, Certification of Energy Auditors in Maine
Ch. 407, Energy Efficiency Building Performance Standards Act
Ch. 409, Pilot Energy Conservation Revolving Loan Fund Program
Filing number: **2015-043 thru 046**
Effective date: 3/23/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission repeals a number of outdated rules related to a prior role the Commission had regarding Maine's energy conservation programs.

Basis statement / summary:

Through this Order, we repeal a number of outdated rules related to a prior role the Commission had regarding Maine's energy conservation programs.

Fiscal impact of rule:

No fiscal impact.

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Agency name: Public Utilities Commission
Umbrella-Unit: 65-407
Statutory authority: 35-A MRS §3214, 10110
Chapter number/title: Ch. 317, Statewide Arrearage Management Program
Filing number: 2015-073
Effective date: 4/19/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts a new rule (Ch. 317, *Statewide Arrearage Management Program*) that sets forth requirements and procedures related to the implementation of P.L. 2013 ch. 556, *An Act to Assist Electric Utility Ratepayers*. This rule requires that all transmission and distribution (T&D) utilities create and administer an Arrearage Management Program.

Basis statement / summary:

The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Commission Docket No. 2015-00015 issued on April 9, 2015. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may be obtained from the Administrative Director of the Public Utilities Commission, 18 State House Station, Augusta, ME 04333-0018.

This chapter establishes a process and regulations by which each electric transmission and distribution utility shall implement an Arrearage Management Program (AMP) to assist eligible low-income residential customers who are in arrears with their electricity bills. An AMP implemented pursuant to this section is a plan under which a transmission and distribution utility works with eligible low-income residential customers to establish an affordable payment plan and provide credit towards a customer's accumulated arrears as long as that customer remains in compliance with the terms of the program.

Fiscal impact of rule:

Minimal.

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: 23-A MRS §3360-A; 35-A MRS §§ 104, 111; PL 2013 ch. 557;
Resolves 2015 ch. 9
Chapter number/title: **Ch. 895**, Underground Facility Damage Prevention Requirements
Filing number: **2015-109**
Effective date: 7/12/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission finally adopts amendments to the Commission's *Underground Facilities Damage Prevention Requirements* rule (Ch. 895) pursuant to recently enacted legislation, Resolves 2015 ch. 9.

Basis statement / summary:

This rule describes the responsibilities of excavators, underground facility operators, the damage prevention system (Dig Safe System, Inc.), and the Public Utilities Commission in implementing Maine's underground facility damage prevention statute. The rule establishes notification, marking, and reporting procedures, defines violations and penalties, and describes the process by which the Public Utilities Commission will enforce the program and monitor its success.

Fiscal impact of rule:

Minimal.

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: 35-A MRS §§ 111, 4508, 4515, 4516-A, 4705-A
Chapter number/title: **Ch. 420**, Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators
Filing number: **2015-171**
Effective date: 9/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to Ch. 420 of the Public Utilities Commission's rules which sets forth safety standards for natural gas and liquefied natural gas operators.

Basis statement / general provisions:

The adopted rule makes minor typographical corrections and clarifications.

Commenter Unitil proposed that the Commission further clarify Section 1(A) of the rule to ensure that the rule remains consistent with federal law regarding jurisdiction of interstate facilities. We agree with Unitil that further jurisdictional clarification of the scope of Ch. 420 is warranted, and adopt Unitil's proposed language for Section 1(A) of the rule.

Fiscal impact of rule:

None

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Agency name: **Public Utilities Commission**
Umbrella-Unit: **65-407**
Statutory authority: PL 2015 ch. 43
Chapter number/title: **Ch. 403**, Rules for the Distribution of Funds to Support Regional Rideshare Programs
Filing number: **2015-253**
Effective date: 12/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement / summary:

Through this Order, we repeal an outdated rule related to a prior role the Commission had regarding Maine's energy conservation programs.

Fiscal impact of rule:
No fiscal impact

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Secretary of State
Umbrella-Unit: 29-250
Statutory authority: 10 MRS §9503
Chapter number/title: Ch. 950, Rules Governing the Use of Digital Signatures
Filing number: 2015-027
Effective date: 3/10/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This amendment makes minor changes to the criteria for acceptance of digital signature products to align with the latest standards of the American Institute of Certified Public Accounts and includes an alternative encryption standard to align with Federal standards. Without this change, Maine's rule would be more stringent than the Federal standard.

Basis statement:

This amendment makes minor modifications to the criteria for acceptance of digital signature products to align those criteria with the latest standards of the American Institute of Certified Public Accounts, and includes an alternative encryption standard to align with Federal standards. Without this change, Maine's rule would be more stringent than the Federal standard.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A MRS §531
Chapter number/title: **Ch. 162**, The Administration of the International Registration Plan
Filing number: **2015-032**
Effective date: 3/17/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is being revised to reflect changes to the International Registration Plan agreement.

Basis statement:

The International Registration Plan is a commercial vehicle base-state registration agreement, in effect among the US states and Canadian provinces, in which the registrant pays a percentage of each jurisdiction's registration fee based on the percentage of miles operated in each jurisdiction.

In 2013, the IRP was amended to implement the "full reciprocity" plan and to remove the use of estimated distance, and to provide that all fees for renewal applications be calculated using the registrant's actual mileage for the reporting period. New registrants would apportion for the first time using the state's average IRP per vehicle mileage by jurisdiction.

Both new and renewal registrants would have the ability to operate in all member jurisdictions.

The "full reciprocity" plan becomes effective January 1, 2015. Registrants would no longer have to estimate mileage for jurisdictions in which they did not operate. Registrants would no longer need to add jurisdictions during the registration year.

Fiscal impact of rule:

None.

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Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A MRS §1354 sub-§3
Chapter number/title: **Ch. 9**, Rules Governing Driver Education
Filing number: **2015-140**
Effective date: 8/8/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purposes of these rules are to: (1) establish the minimum qualifications, licensing standards, and procedures for the licensure of driver education schools and instructors, and (2) implement a standardized driver education curriculum based on best practices. These rules repeal existing rules governing driver education in accordance with PL 1995 ch. 505 §19.

Basis statement:

The enactment of PL 1995 ch. 505 §18, established regulatory responsibility for driver education to the Department of the Secretary of State, Bureau of Motor Vehicles, effective May 1, 1996. That law requires the Secretary of State to:

- 1) Establish a Technical Review Panel to assist in the development of curriculum and teacher and instructor training and certification.
- 2) Develop and implement a standardized driver education curriculum.
- 3) Develop and implement training programs for the licensure of driver education instructors.
- 4) Monitor classroom and behind-the-wheel instruction for compliance with statutory and regulatory requirements.
- 5) Develop and implement a system to evaluate the effectiveness of driver education.
- 6) Inspect driver education schools to ensure compliance with statutory and regulatory requirements.
- 7) Investigate written complaints regarding driver education schools and instructors.

The current rules were developed with the assistance of the Technical Review Panel who provided the Secretary of State with recommendations for standardized curricula, instructor training, licensing and continuing education requirements. These new rules will repeal and replace all previous driver education rules.

A public hearing was held on March 23, 2015 to receive comments on these rules. A description of the rules follows.

Section 1 recites the primary purpose of these rules and provides for the repeal of existing rules governing driver education except as discussed below.

Section 2 defines significant terms and phrases.

Section 3 obligates the Secretary of State to provide information to persons applying for driver education licenses and to issue licenses to qualified persons. License Fees are provided by statute, 29-A MRS §1354(5-A).

Section 4 establishes requirements for the issuance of a driver education instructor license as required by 29-A MRS §1354 (4). The types of driver education instructor licenses and endorsements are described in subsection 1. Subsection 2 outlines the general requirements that all initial license applicants must satisfy. Except for the requirements listed in subsection 2 paragraphs, G, H, and I, which apply only to initial license applicants, licensed instructors must, at all times, comply with the requirements established in subsection 2. Subsection 3 describes the additional requirements for a Class A driver education instructor license. Subsection 4 describes the additional requirements for a Class B driver education

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instructor license. Subsection 5 describes requirements for a Class A and Class B commercial vehicle endorsement. Subsection 6 establishes the continuing education and training requirements for driver education instructor license renewal. Subsection 7 describes a knowledge, vision and road test that applicants for a driver education instructor license must successfully complete. Subsection 8 permits the Secretary of State to authorize Class A driver education instructors, who meet certain conditions, to provide an introductory course in driver education to applicants for Class A driver education instructor licenses. Subsection 9 permits the Secretary of State to authorize Class A driver education instructors, who meet certain conditions, to provide an introductory course in driver education to applicants for Class B driver education instructor licenses. Subsection 10 establishes the requirement of driver education license holders to notify the Secretary of State of address changes.

Section 5 establishes requirements for the issuance of a driver education school license. Subsection 1 requires driver education schools to be licensed by the Secretary of State. Subsection 2 describes the types of driver education school licenses that may be issued by the Secretary of State. Subsection 3 outlines general requirements that applicants for driver education school licenses must satisfy. Section 4 establishes recordkeeping and reporting requirements for driver education schools. Subsection 5 describes the additional requirements for Class A commercial motor vehicle driver education school licenses.

Section 6 establishes the standardized curricula that driver education schools providing a driver education course must follow. Subsection 1 describes required curriculum for Class A driver education schools. The standardized curriculum requires 30 hours of classroom instruction and 10 hours behind-the-wheel instruction. Subsection 2 describes required curriculum for commercial motor vehicle driver education courses which includes 78 hours of classroom instruction, 25 1/2 hours of laboratory instruction and 44 hours behind-the-wheel instruction. Standardized curriculum for courses instructing students on the operation of vehicles requiring a Class B driver's license must provide 42 hours of classroom instruction, 20 hours of behind the wheel instruction (off road) and 10 hours of behind the wheel instruction (on road). The required topics and components of this curriculum are described in subsection 2, paragraph B.

Section 7 requires the Secretary of State to monitor driver education schools, courses and instructors for compliance with statutory and regulatory requirements.

Section 8 describes conduct and activities which are prohibited.

Section 9 outlines the procedure for filing written complaints against driver education schools and instructors.

Section 10 describes the Secretary of State's authority to suspend and revoke driver education licenses.

Fiscal impact of rule:

None.

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Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A MRS §2354-C; PL 2015 ch. 119
Chapter number/title: **Ch. 170**, Permitting Commercial Vehicles at Canadian Weight Limits to Travel from Designated Points at the Canadian Border to Baileyville, Madawaska, and Van Buren
Filing number: **2015-164**
Effective date: 9/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of this rule amendment is to add an additional 7-axle combination vehicle to the allowable truck configurations eligible for the Canadian Weight Limit permit. The additional permit would be available for the Calais to Baileyville route only. The amendment also establishes the fee for this new permit.

Basis statement:

This rule implements the Canadian Weight Limits (CWL) program authorized by Title 29-A MRS §2354-C which provides for the operation of three vehicle configurations at certain Canadian weight limits between the Canadian border at Calais to a mill in Baileyville; from the Canadian border at Madawaska to a paper mill in Madawaska; and from the Canadian border at Van Buren to a rail yard in Van Buren.

The primary purpose of this rule amendment is to add an additional 7-axle combination vehicle to the allowable truck configurations eligible for the Canadian Weight Limit permit. The additional permit would be available for the Calais to Baileyville route only. The amendment also establishes the fee for this new permit.

Fiscal impact of rule:

A minor amount of permit revenue will be generated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Transportation
Umbrella-Unit: 17-229
Statutory authority: 23 MRS §§ 52, 1912-B
Chapter number/title: **Ch. 206**, Rules for the Installation of Gas, Food, Lodging, Camping and Attractions Logo Signs on the Rural Portions of the Interstate Highway System
Filing number: **2015-098**
Effective date: 5/27/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

MaineDOT proposed these amendments to provide more flexibility for mixing and matching logo signs on the Interstate System Specific changes include:

- Changes to allow attraction logos.
- Added flexibility in what is allowed under attractions including types of facilities, number of visitors and miles from the interchange.
- Allowing mileage distance to be doubled and visitors halved on sections of Interstate with less than 5000 AADT.
- Increased flexibility by allowing logo panels to go up with 2 entities instead of the currently required 3 entity applications.
- Allows more than 6 panels of one service type spread over multiple boards.
- In non-rural areas, the Department may allow Attraction and Lodging signs if there is sufficient room.
- If a service is not located on the roadway the interchange serves, the logo entity shall apply for OBDS as continuity signage. Municipalities cannot deny OBDS signs needed for continuity purposes.
- If logo signage for gas, food, lodging and camping are full at an interchange and other entities are on a waiting list to get signage, those entities that have signs will be allowed to keep their signs until December 31,2016, at which time a lottery will be held to determine which entities will receive permits. This lottery will be held at the end of December every 3 years after.
- If the Attractions panels are full at an interchange, the Department will open up 3 slots for a bid process, with the highest 3 bidders receiving the slots, their yearly cost will be their bid price. The remainder of the slots will be done via lottery. This lottery will be held at the end of December every 3 years after.
- Existing signs on the interstate that the Department determines is better suited for logo signage will be removed from the interstate by December 31, 2015. The Department will notify the entity 30 days before removal.
- Change to allow the Department to install and maintain the signs.

Fiscal impact of rule:

MaineDOT anticipates that this rule will result in little to no additional fiscal impact on the regulated community.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Transportation
Umbrella-Unit: 17-229
Statutory authority: 23 MRS ch. 21 §§ 1901-1925; 23 MRS §52
Chapter number/title: **Ch. 200**, Regulations for the Installation of Official Business Directional Signs
Ch. 201, Regulations for the Location of Political Posters and Signs
Ch. 203, Regulations for Categorical Signs Permitted Outside the Right-of-Way
Ch. 205, Rules for Administering the Maine Traveler Information Services Act
Filing number: 2015-125 thru 128
Effective date: 7/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule-making action will provide more flexibility on installing signs statewide and clarify what have been problem areas in administering past rules. It will allow continuity signage for Maine Logo signs, allow farmer's markets signs in the state's right of way and provide a licensing option for signs within the right of way.

Basis statement:

By this rule-making action MaineDOT repealed existing rule Ch. 200, 201 and 203 and replaced them with a new Ch. 205, "Rules for Administering the *Maine Traveler Information Services Act*".

These changes were made to provide more flexibility on installing signs statewide and clarify what have been problem areas in administering past rules. The new rules will allow continuity signage for Maine Logo signs, allow farmer's market signs in the State's highway rights of way and provide a licensing option for signs within the right of way. Specific enhancements include:

- Added definitions to codify existing business practices. The definitions are meant to provide guidance to alleviate on-going issues under the current rules.
- Maine Logo signs are directional in nature. The new rule requires that continuity signs (in the form of OBDS) are needed if the entity with the logo sign is not located immediately on the roadway that the interstate ramps connect with.
- The continuity OBDS signs do not need municipal approval. The continuity signs do not count towards the six maximum OBDS allowed.
- Adds a reconsideration and appeals section to streamline aggrieved parties.
- Development of charts indicating Categorical sign sizes and accepted locations.
- Allows farmers market signs in the states Right of Way.
- All new OBDS on National Highway System (NHS) roadways shall only be reflective type signs.
- No Categorical signs allowed on islands 6 feet or less in width (including hand held signs), nor in the center island of any rotary or roundabout. This is being done for safety of those holding signs, installing signs and view of vehicular traffic.
- Categorical signs cannot be placed in an area that interferes with or obstructs a driver's view.
- Reinforces that entities installing categorical signs need to comply with "Dig Safe" standards.
- Allows for licensing provisions for on-premises signs to be located in the State's Right-of-Way for reasons of hardship, provided safety clear zone standards are met.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

- More than one Changeable sign may be allowed on a property if that property abuts more than one roadway.

Fiscal impact of rule:

MaineDOT anticipates that this rule will result in little to no additional fiscal impact on the regulated community.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Transportation - General
Umbrella-Unit: 17-229
Statutory authority: 29-A MRS §2354-I
Chapter number/title: **Ch. 310**, Rules for Permitting Overlimit Commercial Vehicles of Specified Configurations to Travel Designated Routes
Filing number: **2015-135**
Effective date: 8/21/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

Adoption of this Major Substantive rule was mandated by 29-A MRS §2354-D, as enacted by P.L. 2013 Ch. 565 (126th Maine Legislature, Second Regular Session)

Basis statement:

The Maine Legislature (P.L. 2013 Ch. 565) mandated adoption of these rules by MaineDOT and designated them as Major Substantive. The rules define the manner in which an entity may submit a request to operate commercial motor vehicles of a specified configuration that exceed established commercial motor vehicle weight limits or vehicle dimension standards over a designated specific limited portion of the state's public ways (a "Special Haul Route"); the process by which the Department will receive, consider, approve and/or deny such requests; the process to be administered by the Bureau of Motor Vehicles for the credentialing of specific commercial motor vehicles of approved configurations to operate over such Special Haul Routes at sanctioned weight limits; and the procedures and conditions under which the privileges granted hereunder may be suspended or rescinded.

Fiscal impact of rule:

It is difficult to estimate the fiscal impact of this rule with any degree of certainty. Implementation will require some expenditures from the Highway Fund, depending on the number and magnitude of the rules. However, in order to be accepted, the rules must promote economic development and be capable of being implemented without unreasonable or excessive cost to the public, and potential negative impacts to the public highway infrastructure must be mitigated by substantial private investment in the highway infrastructure. It is therefore anticipated that any negative impacts to the Highway Fund will be largely offset by the positive fiscal impacts of the economic development generated by the rule.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Transportation, **Maine Pilotage Commission**
Umbrella-Unit: **17-387**
Statutory authority: 38 MRS §90
Chapter number/title: **Ch. 1**, Rules and Regulations
Filing number: **2015-001**
Effective date: 1/10/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These amendments to the Maine Pilotage Commission rules are being proposed in order to:

- add new language to require pilots to maintain Electronic Chart Display Information System training to ensure competence with current navigation technology;
- eliminate obsolete language regarding ferry operations between Bar Harbor and Yarmouth Nova Scotia. The operation no longer exists which makes the verbiage obsolete;
- align physical reporting standards with U.S. Coast Guard regulations.
- clarification of the requirements for pilot Automatic Radar Plotting Aids (ARPA) certification for initial licensure and renewals;
- clarification that post accident drug testing results should be made available from the marine employer to the Pilot Commission within five days receiving notification from the laboratory; and
- several inconsequential technical/grammatical edits to make the rule more technically/grammatically sound.

These changes were approved by the Maine Pilotage Commission to move forward with rule-making at its June 19, 2014 meeting.

Basis statement:

These amendments to the Maine Pilotage Commission rules were adopted to clarify the expectations of licensed pilots and the Pilotage Commission for future proceedings, and to update the rules to reflect industry standard practices. Specifically, these amendments:

- add new language to require pilots to maintain Electronic Chart Display Information System training to ensure competence with current navigation technology;
- eliminate obsolete language regarding ferry operations between Bar Harbor and Yarmouth Nova Scotia. The operation no longer exists which makes the verbiage obsolete;
- align physical reporting standards with U.S. Coast Guard regulations.
- clarify the requirements for pilot Automatic Radar Plotting Aids (ARPA) certification for initial licensure and renewals;
- clarify that post accident drug testing results should be made available from the marine employer to the Pilot Commission within five days receiving notification from the laboratory; and
- make several inconsequential technical/grammatical edits to make the rule more technically/grammatically sound.

Fiscal impact of rule:

No fiscal impact is anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: **Workers' Compensation Board**
Umbrella-Unit: **90-351**
Statutory authority: 39-A MRS §101 *et seq.*
Chapter number/title: **Ch. 5**, Medical Fees: Reimbursement Levels; Reporting Requirements
Ch. 12, Formal Hearings
Ch. 17, Expenses and Fees
Filing number: **2015-173. 174, 175**
Effective date: 10/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Pursuant to 39-A MRS §209-A(5), every three years the Board must undertake a comprehensive review of the medical fee schedule. The proposed amendments incorporate changes designed to ensure both broad access to care and appropriate limitations on the cost of health care services.

Fiscal impact of rule:
None