

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
OFFICE  
OF THE  
SECRETARY OF STATE

SHENNA BELLOWS  
SECRETARY OF STATE

February 1, 2021

Suzanne Gresser, Executive Director  
Maine State Legislative Council  
115 State House Station  
Augusta, ME 04333-0115

Dear Executive Director Gresser,

Maine Revised Statutes Title 5, §8053-A, sub-§5, provides that by February 1<sup>st</sup> 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 2020.

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 2020, there were 256 rule adoption filings. Following is a list of the agencies with the number of adopted rule filings:

Umbrella number	Agency	Total Adopt	Routine Technical	Major Substantive	Emergency	Non Emergency
01	Department of Agriculture, Conservation and Forestry	34	34	0	20	14
02	Department of Professional and Financial Regulation	53	52	1	4	49
03	Department of Corrections	4	4	0	1	3
05	Department of Education	6	1	5	1	5
06	Department of Environmental Protection	4	4	0	0	4
09	Department of Inland Fisheries and Wildlife	14	14	0	1	13
10, 14	Department of Health and Human Services	45	40	5	14	31
12	Department of Labor	7	7	0	0	7
13	Department of Marine Resources	32	32	0	15	17
15	Department of Defense, Veterans and Emergency Management	1	1	0	0	1

Umbrella number	Agency	Total Adopt	Routine Technical	Major Substantive	Emergency	Non Emergency
16	Department of Public Safety	2	2	0	0	2
17	Department of Transportation	3	3	0	0	3
18	Department of Administrative and Financial Services	9	8	1	4	5
19	Department of Economic and Community Development	2	2	0	0	2
29	Secretary of State	7	7	0	1	6
65	Public Utilities Commission	11	10	1	1	10
90-590	Maine Health Data Organization	5	4	1	0	5
94-178	Kim Wallace Adaptive Equipment Loan Program Fund Board	1	1	0	0	1
94-293	Baxter State Park Authority	1	1	0	0	1
94-411	Maine Public Employees Retirement System	9	9	0	3	6
94-457	Finance Authority of Maine	2	2	0	0	2
99-346	Maine State Housing Authority	3	3	0	0	3
99-626	Maine Rural Development Authority	1	1	0	0	1
	<b>Totals for 2020</b>	<b>256</b>	<b>242</b>	<b>14</b>	<b>65</b>	<b>191</b>

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, this 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,



Shenna Bellows  
Secretary of State

Annual List of Rule-making Activity  
Rules Adopted 1/1/2020 to 12/31/2020  
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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-048	01-001	Department of Agriculture, Conservation and Forestry	Ch. 266	Hemlock Woolly Adelgid Quarantine	7 MRS §§ 2301-2303	Routine Technical	No	3/15/2020
2020-015	01-001	Department of Agriculture, Conservation and Forestry	Ch. 274	Rules for Growing Hemp	7 MRS §2231	Routine Technical	No	2/4/2020
2020-049	01-001	Department of Agriculture, Conservation and Forestry	Ch. 275	Emerald Ash Borer Quarantine	7 MRS §§ 2301-2303	Routine Technical	No	3/15/2020
2020-014	01-001	Department of Agriculture, Conservation and Forestry	Ch. 332	Rabbit Processing	22 MRS §§ 2154, 2517-E sub-§3	Routine Technical	No	2/3/2020
2020-016	01-001	Department of Agriculture, Conservation and Forestry	Ch. 361	On Farm Raising, Slaughter and Processing of Less Than 1000 Rules Ready-to-Cook Whole Rabbits Carcasses <i>(New)</i>	22 MRS §§ 2154, 2517-E sub-§3	Routine Technical	No	2/4/2020
2020-013	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #02-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	2/2/2020
2020-032	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #03-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	3/1/2020
2020-060	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #04-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	3/29/2020
2020-110	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #05-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	5/3/2020
2020-127	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #06-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	5/31/2020
2020-142	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, <b>Order #07-20</b>	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	6/28/2020

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2020-170	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #08-20	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	8/2/2020
2020-192	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #09-20	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	8/30/2020
2020-211	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #10-20	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	10/4/2020
2020-224	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #11-20	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	11/1/2020
2020-235	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #12-20	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	11/29/2020
2020-256	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #01-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	1/3/2021
2020-063	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 27	Retail Margins	5 MRS §8054; 7 MRS §2954	Routine Technical	No	4/1/2020
2020-112	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 1	Administration	8 MRS §279-A	Routine Technical	Yes	5/1/2020
2020-171	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 5	Tracks	8 MRS §279-A	Routine Technical	Yes	7/31/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-249	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 5	Tracks	8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279, 279-A, 279-E, 281, 298 §279-A	Routine Technical	No	12/22/2020
2020-131	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 7	Racing	8 MRS §279-A	Routine Technical	Yes	6/1/2020
2020-172	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 7	Racing	8 MRS §279-A	Routine Technical	Yes	7/31/2020
2020-184	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 7	Racing	8 MRS §279-A	Routine Technical	Yes	8/17/2020
2020-149	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 9	Sire Stakes	8 MRS §279-A	Routine Technical	Yes	7/6/2020
2020-185	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 11	Medications, Prohibited Substances, and Testing	8 MRS §279-A	Routine Technical	Yes	8/17/2020
2020-150	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 19	Protests, Appeals and Race Date Assignment Hearings	8 MRS §279-A	Routine Technical	Yes	7/6/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-209	01-670	Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands	Ch. 57	Logging and Forestry Education Grant Program	12 MRS §1859 (PL 2017 ch. 289 §9)	Routine Technical	No	9/27/2020
2020-012	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: <b>ZP 777</b> (TA R2 WELS. — Aroostook County) (William Robinson, LLC)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	1/13/2020
2020-031	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: <b>ZP 778</b> (Atkinson Twp. — Piscataquis County) (Maine Use Planning Commission, Staff Initiated)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	2/21/2020
2020-128	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: <b>ZP 693B</b> (Kingsbury Plt. — Piscataquis County) (Maine Use Planning Commission, Staff Initiated)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	5/18/2020
2020-191	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: <b>ZP 707B</b> (many locations) (Weyerhaeuser Company and Weyerhaeuser NR Company, c/o Luke Muzzy)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	8/10/2020
2020-208	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Districts and Standards	12 MRS §§ 685-A(3), 685-A(7-A); 685-C(5); 28-B MRS §404	Routine Technical	No	10/1/2020
2020-237	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: ZP 780 (Pleasant Ridge Plt. — Somerset County) (Robert F. Howe d/b/a/ Pine Grove Lodge & Cabins)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	11/10/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-232	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 175	"Private Passenger Motor Vehicle" Definition for Rental Vehicle Coverage <i>(New)</i>	24-A MRS §§ 212, 2927(1)(D) and (5)	Routine Technical	No	11/17/2020
2020-220	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 365	Standards for Independent Dispute Resolution of Emergency Medical Service Bills <i>(New)</i>	24-A MRS §§ 212, 4303-E	Routine Technical	No	10/24/2020
2020-120	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 850	Health Plan Accountability	24-A MRS §§ 212, 2772, 2774, 4218, 4218-A, 4222-A, 4303, 4309, 4309-A	Routine Technical	No	5/24/2020
2020-207	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 950	Navigator Certification and Training for Health Benefit Marketplaces	24-A MRS §§ 212, 2188	Routine Technical	No	9/22/2020



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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-100	02-039	Department of Professional and Financial Regulation, Real Estate Commission	Ch.360	Prerequisites to Licensure by Individuals	12 MRS §13065	Routine Technical	Yes	4/22/2020
2020-186	02-039	Department of Professional and Financial Regulation, Real Estate Commission	Ch.360	Prerequisites to Licensure by Individuals	12 MRS §13065	Routine Technical	No	8/13/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-002	02-297	Department of Professional and Financial Regulation, Board of Chiropractic Licensure	Ch. 3	Licensure Requirements for Chiropractic Doctors <i>(Repeal)</i>	32 MRS §§ 502, 551, 552, 564	Routine Technical	No	1/7/2020
2020-003	02-297	Department of Professional and Financial Regulation, Board of Chiropractic Licensure	Ch. 3-A	Licensure Requirements for Chiropractic Doctors and Temporary Chiropractic Interns <i>(New)</i>	32 MRS §§ 502, 551, 552, 564	Routine Technical	No	1/7/2020
2020-004	02-297	Department of Professional and Financial Regulation, Board of Chiropractic Licensure	Ch. 9	Fees <i>(Repeal)</i>	32 MRS §§ 502, 551, 552, 564	Routine Technical	No	1/7/2020

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2020-010	02-298	Department of Professional and Financial Regulation, Board of Real Estate Appraisers	Ch. 240	Standards of Professional Practice	32 MRS §14012	Routine Technical	No	1/20/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-065	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 1	Definitions	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-066	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 2	Rules Relating to Dental Hygienists <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-067	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 2	Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-068	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 3	Rules Relating to Dental Assistants <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-069	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 3	Qualifications for Expanded Function Dental Assistant Licensure <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-070	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 4	Rules Relating to the Practice of Denturism <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-071	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 4	Qualifications for Dental Radiography Licensure <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-072	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 5	Requirements for Licensure as a Denturist <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-073	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 5	Qualifications for Denturist Licensure <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-074	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 6	Rules for Radiation Barriers <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020



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2020-075	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 6	Qualifications for Dentist Licensure <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-076	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 8	Advertising <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-077	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 8	Qualifications for Initial and Renewal Registrations <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-078	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 9	Complaints / Investigations / Unprofessional Conduct <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-079	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 9	Unprofessional Conduct <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-080	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 10	Licensure Requirements for Dental Radiographers <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-081	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 10	Sexual Misconduct <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-082	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 11	Requirements for Licensure as Dental Hygienists <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-083	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 11	Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-084	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 12	Requirements for Dental Licensure <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-085	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 12	Practice Requirements <i>(New)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-086	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 15	Mortality or Significant Health Incidents in a Dental Office <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020

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2020-087	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 16	Rules for Independent Practice Dental Hygienists to Process Dental Radiographers <i>(Repeal)</i>	32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)	Routine Technical	No	4/5/2020
2020-252	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 7	Establishment of Fees	32 MRS §§ 18323(3), 18324	Routine Technical	No	12/26/2020

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2020-246	02-373	Department of Professional and Financial Regulation, Board of Licensure in Medicine	Ch. 2	Joint Rule Regarding Physician Assistants <i>(a joint rule with 02-383)</i>	10 MRS §8003(5)(C)(4)3 2 MRS §§ 2562, 2594-E(5), 3269(7), 3270-E(5)	Routine Technical	No	12/16/2020
2020-107	02-373	Department of Professional and Financial Regulation, Board of Licensure in Medicine	Ch. 12	Joint Rule Regarding Office Based Treatment of Opioid Use Disorder <i>(a joint rule with 02-380 and 02-383)</i>	32 MRS §§ 3269(3),(7), 3300-F	Routine Technical	No	4/29/2020
2020-123	02-373	Department of Professional and Financial Regulation, Board of Licensure in Medicine	Ch. 21	Use of Controlled Substances for Treatment of Pain <i>(a joint rule with 02-380, 02-383, and 02-396)</i>	32 MRS §§ 3269(3),(7), 3300-F	Routine Technical	No	5/27/2020



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2020-105	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 5	Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants	32 MRS §§ 2102(D), 2104, 2153-A; 22 MRS §1812-G; 5 MRS §8054; Proclamation, Executive Order	Routine Technical	Yes	4/24/2020
2020-029	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 8	Regulations Relating to Advanced Practice Registered Nursing	32 MRS §§ 2153-A(1), 2102(2-A); 32 MRS §2211(4)	Routine Technical	No	3/1/2020
2020-030	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 10	Regulations Relating to Administration of Intravenous Therapy by Licensed Nurses	32 MRS §§ 2153-A(1), 2102(2)(C)	Routine Technical	No	3/1/2020
2020-106	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 10	Regulations Relating to Administration of Intravenous Therapy by Licensed Practical Nurses and Registered Professional Nurses	32 MRS §§ 2153-A, 2102(2)(C); 5 MRS §8054; Proclamation, Executive Order	Routine Technical	Yes	4/24/2020
2020-108	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 12	Joint Rule Regarding Office Based Treatment of Opioid Use Disorder ( <i>a joint rule with 02-373 and 02-383</i> )	32 MRS §§ 2102(2-A), 2152-A(1), 2210	Routine Technical	No	4/29/2020
2020-124	02-380	Maine State Board of Nursing ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 21	Use of Controlled Substances for Treatment of Pain ( <i>a joint rule with 02-373, 02-383, and 02-396</i> )	32 MRS §§ 2102(2-A), 2153-A(1), 2210	Routine Technical	No	5/27/2020

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2020-021	02-382	Maine Board of Optometry ( <i>affiliated with the</i> Department of Professional and Financial Regulation)	Ch. 1	Examination; Approved Schools; License Renewal; Fees; Continuing Education; Section 4, Fees: (C), Late Renewal Fee	34-A MRS sub-ch. III §2423	Routine Technical	No	2/9/2020

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2020-247	02-383	Department of Professional and Financial Regulation, Board of Osteopathic Licensure	Ch. 2	Joint Rule Regarding Physician Assistants <i>(a joint rule with 02-373)</i>	10 MRS §8003(5)(C)(4)3 2 MRS §§ 2562, 2594-E(5), 3269(7), 3270-E(5)	Routine Technical	No	12/16/2020
2020-109	02-383	Department of Professional and Financial Regulation, Board of Osteopathic Licensure	Ch. 12	Joint Rule Regarding Office Based Treatment of Opioid Use Disorder <i>(a joint rule with 02-373 and 02-380)</i>	32 MRS §§ 2562, 2600-C	Routine Technical	No	4/29/2020
2020-125	02-383	Department of Professional and Financial Regulation, Board of Osteopathic Licensure	Ch. 21	Use of Controlled Substances for Treatment of Pain <i>(a joint rule with 02-373, 02-380, and 02-396)</i>	32 MRS §§ 2562, 2600-C	Routine Technical	No	5/27/2020

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2020-176	02-385	Department of Professional and Financial Regulation, Manufactured Housing Board	Ch. 350	Licensing - Scope of Practice, Obligations of Licensees, Prohibited Practices	10 MRS §9005-A	Routine Technical	No	8/9/2020

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2020-114	02-392	Department of Professional and Financial Regulation, Maine Board of Pharmacy	Ch. 12	Licensure of Manufacturers and Wholesalers	32 MRS §§ 13720, 13721(1)(E), 13723, 13751, 13758, 13759	Major Substantive	No	6/6/2020
2020-089	02-392	Department of Professional and Financial Regulation, Maine Board of Pharmacy	Ch. 36	Licensure of Opioid Treatment Programs	32 MRS §§ 13751(2)(A), 3; 5 MRS §8054	Routine Technical	Yes	4/4/2020
2020-148	02-392	Department of Professional and Financial Regulation, Maine Board of Pharmacy	Ch. 36	Licensure of Opioid Treatment Programs	32 MRS §§ 13751(2)(A), 3	Routine Technical	No	7/7/2020

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2020-126	02-396	Department of Professional and Financial Regulation, Maine Board of Licensure of Podiatric Medicine	Ch. 21	Use of Controlled Substances for Treatment of Pain ( <i>a joint rule with 02-373, 02-380, and 02-383</i> )	32 MRS §§ 3605-B, 3657	Routine Technical	No	5/27/2020

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2020-225	02-643	Department of Professional and Financial Regulation, Board of Speech, Audiology and Hearing	Ch. 9	Speech-Language Pathology Assistants	32 MRS §§ 17203(2), 17103(6), 17301(5)	Routine Technical	No	11/8/2020

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2020-201	03-201	Department of Corrections	Ch. 1	Detention and Correctional Standards for Counties and Municipalities	34-A MRS §1208	Routine Technical	Yes	8/28/2020
2020-033	03-201	Department of Corrections	Ch. 10	Policy and Procedures Manual Adult: Subsection 20.2, Drug and Alcohol Testing	34-A MRS §§ 1402, 1403, 3032	Routine Technical	No	3/4/2020
2020-206	03-201	Department of Corrections	Ch. 10	Policy and Procedures Manual Adult: Subsection 24.3, Religious Services	34-A MRS §§ 1403, 3048	Routine Technical	No	9/21/2020
2020-001	03-201	Department of Corrections	Ch. 11	Police and Procedure Manual - Adult and Juvenile: Subsection 2.12, Prisoner and Resident Accounts	34-A MRS §§ 1402, 1403, 3039	Routine Technical	No	1/7/2020



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2020-166	05-071	Department of Education / State Board of Education	Ch. 112	Professional Standards Board ( <i>New</i> )	20-A §13104	Routine Technical	No	7/26/2020
2020-101	05-071	Department of Education	Ch. 115 Part II	The Credentialing of Education Personnel: Requirements for Specific Certificates and Endorsements	20-A §13011(1)	Major Substantive	No	5/23/2020
2020-102	05-071	Department of Education	Ch. 125	Basic Approval Standards: Public Schools and School Administrative Units	20-A §4502(5)	Major Substantive	No	5/23/2020
2020-190	05-071	Department of Education	Ch. 125	Basic Approval Standards: Public Schools and School Administrative Units	20-A §4504(3)	Major Substantive	Yes	8/24/2020
2020-139	05-071	Department of Education	Ch. 132	Learning Results: Parameters for Essential Instruction	20-A §6211	Major Substantive	No	7/18/2020
2020-140	05-071	Department of Education	Ch. 180	Performance Evaluation and Professional Growth Systems	20-A §13706	Major Substantive	No	7/18/2020

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2020-196	06-096	Department of Environmental Protection	Ch. 156	CO <sub>2</sub> Budget Trading Program	38 MRS §§ 580, 580-A, 580-B, 580-C, 585-A	Routine Technical	No	8/30/2020
2020-197	06-096	Department of Environmental Protection	Ch. 158	CO <sub>2</sub> Budget Trading Program Auction Provisions	38 MRS §§ 580, 580-A, 580-B, 580-C, 585-A	Routine Technical	No	8/30/2020
2020-024	06-096	Department of Environmental Protection	Ch. 584	Surface Water Quality Criteria for Toxic Pollutants	38 MRS §§ 341-H, 420, 464(5); PL 2019 ch. 463	Routine Technical	No	2/16/2020
2020-167	06-096	Department of Environmental Protection	Ch. 890	Designation of PFOS and Its Salts as Priority Chemicals ( <i>New</i> )	38 MRS §§ 341-H, 1694	Routine Technical	No	7/28/2020

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2020-221	09-137	Department of Inland Fisheries and Wildlife	Ch. 1	Open Water and Fishing Regulations	12 MRS §§ 10104, 12452, 12461	Routine Technical	No	1/1/2021
2020-222	09-137	Department of Inland Fisheries and Wildlife	Ch. 1-A	State Heritage Fish Waters	12 MRS §§ 10104, 12452, 12461	Routine Technical	No	1/1/2021
2020-023	09-137	Department of Inland Fisheries and Wildlife	Ch. 2	Rules Pertaining to Commercial Fishing, Fish Culture and Fishing Derbies and Tournaments: 2.05, Bass Fishing Tournaments	12 MRS §12505	Routine Technical	No	2/16/2020
2020-243	09-137	Department of Inland Fisheries and Wildlife	Ch. 6	Educational and Scientific Collection Permit Rules	12 MRS §§ 10104, 12152	Routine Technical	No	12/7/2020
2020-025	09-137	Department of Inland Fisheries and Wildlife	Ch. 7	Rules for Importation, Possession, Propagation, Rehabilitation and Exhibition of Wildlife (Agritourism)	12 MRS §§ 10104, 12152	Routine Technical	No	2/18/2020
2020-141	09-137	Department of Inland Fisheries and Wildlife	Ch. 14	Commercial Whitewater Rafting	12 MRS §§ 10104, 12909	Routine Technical	Yes	6/18/2020
2020-090	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.11, Migratory Game Bird Hunting	12 MRS §§ 10104, 11855	Routine Technical	No	4/12/2020
2020-129	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.08, Moose Hunting	12 MRS §§ 11551, 11552	Routine Technical	No	6/2/2020
2020-162	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.07, Deer Hunting (Expanded Archery Areas)	12 MRS §§ 10104, 11402	Routine Technical	No	7/25/2020
2020-163	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.10, Wild Turkey Hunting	12 MRS §§ 10104, 11701	Routine Technical	No	7/25/2020
2020-180	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting	12 MRS §10104	Routine Technical	No	8/24/2020
2020-181	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.07(4.A.)(6), Deer Hunting	12 MRS §§ 11152, 11401	Routine Technical	No	8/24/2020
2020-182	09-137	Department of Inland Fisheries and Wildlife	Ch. 17	Trapping	12 MRS §§ 10104, 12251	Routine Technical	No	8/24/2020

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2020-164	09-137	Department of Inland Fisheries and Wildlife	Ch. 24	Licensed Guides	12 MRS §§ 10104, 12851	Routine Technical	No	7/25/2020

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2020-055	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. I Section 4</b> , Telehealth Services	22 MRS §§ 42, 3173; 5 MRS §8054	Routine Technical	Yes	3/16/2020
2020-136	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. I Section 4</b> , Telehealth Services	22 MRS §§ 42, 3173; 5 MRS §8054; 24-A MRS §4136	Routine Technical	No	6/15/2020
2020-057	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. I Section 5</b> , COVID-19 Public Health Emergency Services	22 MRS §§ 42, 3173; 5 MRS §§ 8054, 8073	Routine Technical	No	3/20/2020
2020-116	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. I Section 5</b> , COVID-19 Public Health Emergency Services	22 MRS §§ 42, 3173; 5 MRS §§ 8054, 8073	Routine Technical	Yes	5/13/2020
2020-121	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. II &amp; III Section 65</b> , Behavioral Health Services	22 MRS §§ 42(8), 3173; 5 MRS §8054; PL 2019 ch. 343; Resolves 2019 ch. 110; PL 2019 ch. 616	Routine Technical	Yes	5/21/2020
2020-178	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. II &amp; III Section 65</b> , Behavioral Health Services	22 MRS §§ 42, 3173; 5 MRS §8054; PL 2019 ch. 4 <i>and</i> 343; Resolves 2019 ch. 99 <i>and</i> 110; PL 2019 ch. 616	Routine Technical	No	8/19/2020
2020-215	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. III Section 5</b> , Ambulance Services	22 MRS §§ 42, 3173; PL 2019 ch. 530 part B	Routine Technical	No	10/12/2020

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2020-242	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. II Section 103</b> , Rural Health Clinic Services	22 MRS §§ 42, 3173; PL 2019 ch. 530	Routine Technical	No	12/8/2020
2020-233	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. III Section 45</b> , Principal of Reimbursement: Hospital Services	22 MRS §§ 42(1)&(8), 3173	Routine Technical	No	11/23/2020
2020-234	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: <b>Ch. VII Section 5</b> , Estate Recovery	22 MRS §§ 42, 3173	Routine Technical	No	11/30/2020
2020-118	10-144	Department of Health and Human Services	Ch. 104	Maine State Services Manual: Section 8 ( <i>New</i> ), Wholesale Prescription Drug Importation Program	PL 2019 ch. 472 (5 MRS ch. 167 and 22-A MRS §205)	Major Substantive	No	6/14/2020
2020-111	10-144	Department of Health and Human Services, Division of Licensing and Certification	Ch. 110	Regulation Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities	22 MRS §§ 1817, 1820	Routine Technical	Yes	4/28/2020
2020-169	10-144	Department of Health and Human Services, Division of Licensing and Certification	Ch. 110	Regulation Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities	22 MRS §§ 1817, 1820	Routine Technical	No	8/1/2020
2020-099	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 124	Emergency Medical Services Personnel Reporting Rule ( <i>New</i> )	22 MRS §§ 42, 1951, 3173	Major Substantive	Yes	4/22/2020
2020-165	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 201	Administration and Enforcement of Establishments Regulated by the Health Inspection Program	22 MRS §§ 2496, 2664, 1551-A; 32 MRS §§ 4251, 4252, 4325, 4326	Routine Technical	No	7/29/2020
2020-187	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 233	Rules Relating to Testing Private Water Systems for Hazardous Contaminants ( <i>Repeal</i> )	22 MRS §§ 565(3), 2602-A 2609, 2660-U, 2660-X	Routine Technical	No	8/26/2020

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2020-188	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 257	Schedule of Charges for Testing and Services Provided by the Maine Health and Environmental Testing Laboratory	22 MRS §§ 565(3), 2602-A 2609, 2660-U, 2660-X	Routine Technical	No	8/26/2020
2020-117	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 258	Rules for the Control of Notifiable Diseases and Conditions	5 MRS §§ 8054, 8073; 22 MRS §§ 802, 822	Routine Technical	Yes	5/12/2020
2020-051	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 287	Rules for Family Planning Funding ( <i>Repeal</i> )	22 MRS §1904	Routine Technical	No	3/16/2020
2020-088	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 292	Rules Relating to The Lead Poisoning Control Act	22 MRS §§ 1320,1320-A, 1323; 5 MRS §8054	Routine Technical	Yes	4/1/2020
2020-168	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 292	Rules Relating to The Lead Poisoning Control Act	22 MRS §§ 1320,1320-A, 1323	Routine Technical	No	7/29/2020
2020-137	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #211A (2019 Updates to the Lottery Rule): Sections 444-12, 666-6	22 MRS §42(1); 7 USC §2015(s)(1)-(3); 7 CFR §§ 273.11(r), 273.12, 273.17	Routine Technical	No	7/1/2020
2020-198	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #213A: Section 777-3, Administrative Procedures Claims and Collections	22 MRS §42(1), 7 CFR §273.18	Routine Technical	No	9/1/2020
2020-213	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #215E: Section 999-3 (Charts), FFY 2021 Budgeting Figures	22 MRS §§ 42(1), 3104; 5 MRS §8054; 7 CFR §273.9(d)	Routine Technical	Yes	10/1/2020

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2020-244	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #214A: Section 999-2, FFY 2021 ABAWD	22 MRS §42(1) and (8); PL 116-127 §2301; 7 CFR §273.24	Routine Technical	No	12/17/2020
2020-250	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #215A: Section 999-3, FFY 2021 Budgeting Figures	22 MRS §42(1) and (8); 3107; 7 CFR §273.9(d)	Routine Technical	No	12/30/2020
2020-145	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 323	Maine General Assistance Manual, General Assistance Rule #23A (Changes Pursuant to LD 459): Sections II, IV, VI	22 MRS §42(1); 22 MRS §4301 sub-§5A; 22 MRS §4308 sub-§2	Routine Technical	No	7/1/2020



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2020-017	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule #115E (TANF Relationship Changes)	22 MRS §§ 42(1), 3762(3)(A), 3763(6), 3769-A; 5 MRS	Routine Technical	Yes	1/30/2020
2020-022	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule #114E (Changes to Budgeting)	PL 2019 ch. 485; PL 2019 ch. 484; 22 MRS §§ 42(1) and (8), 3762(3)(A), 3763(6), 3769-A; 5 MRS §8054; 45 CFR §§ 400.301	Routine Technical	Yes	2/4/2020
2020-053	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule #C19E (Changes to In-person Requirements)	22 MRS §§ 42(1), 3762(3)(A), 3763(6), 3769-A; 5 MRS	Routine Technical	Yes	3/13/2020
2020-098	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule #114A (Changes to Household and Budgeting)	5 MRS §8054; 22 MRS §§ 42(1), 3762(3)(A), 3763(6), 3769-A; 45 CFR §400.301	Routine Technical	No	4/29/2020
2020-119	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	Ch. 332, MaineCare Eligibility Manual, <b>MC Rule #298E</b> : Part 9, Limited Benefit Groups	22 MRS §42(1),(8); PL 116-127; 5 MRS §854	Routine Technical	Yes	3/18/2020

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2020-122	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, <b>MC Rule #292A</b> : Part 10, Medically Needy Coverage	22 MRS §42(1)	Routine Technical	No	7/1/2020
2020-138	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, <b>MC Rule #296A</b> (Transitional MaineCare 2019 Changes): Parts 2, 3	22 MRS §42(1)	Routine Technical	No	1/1/2020
2020-174	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 332	MaineCare Eligibility Manual, <b>MC Rule #293A</b> (MSP and DEL Income Limit Changes): Part 8, Medicare Savings Program (Buy-In)	22 MRS §§ 42(1), 42(8), 254-D(4)(D), 254-D(7), 258(7); PL 2019 ch. 343	Routine Technical	No	2/1/2020 <i>(Retroactive)</i>
2020-175	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 333	Low Cost Drugs for the Elderly and Disabled (DEL), <b>MC Rule #293A</b> (MSP and DEL Income Limit Changes)	22 MRS §§ 42(1), 42(8), 254-D(4)(D), 254-D(7), 258(7); PL 2019 ch. 343	Routine Technical	No	7/1/2019 <i>(Retroactive)</i>
2020-179	10-144	Department of Health and Human Services, Office for Family Independence, Division of Support Enforcement and Recovery	Ch. 351	Maine Child Support Enforcement Manual: ch. 4, Fees (Annual Service Fee for Obligees)	22 MRS §42(1); 19-A MRS §2103(3-A); <i>Social Security Act</i> , Section 454(6)(B)(ii)	Routine Technical	No	8/18/2020
2020-146	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 607	ASPIRE-TANF Program Rules: ASPIRE Rule #27A (Good Cause), Section 4	22 MRS §§ 42(1), 3785-A; 45 CFR 261.62, 400.301; Resolves 2019 ch. 67	Routine Technical	No	7/20/2020

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2020-199	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 607	ASPIRE-TANF Program Rules: ASPIRE Rule #26A (Support Services Changes), Sections 1, 11, 14	22 MRS §§ 42(1), 3762(3)(A), 3769-A	Routine Technical	No	9/1/2020
2020-200	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 609	Food Supplement – Employment and Training (FSET) Program Rules (FSET Rule #FSET4A) ( <i>Repeal and replace</i> )	22 MRS §42(1); 7 CFR §273.7	Routine Technical	No	10/1/2020
2020-173	10-146	Department of Health and Human Services, Maine Center for Disease Control and Prevention, Office of Data, Research, and Vital Statistics	Ch. 15	Death with Dignity Act Reporting Rule ( <i>New</i> )	22 MRS §2140	Major Substantive	No	8/30/2020
2020-154	10-146	Department of Health and Human Services, Maine Center for Disease Control and Prevention, Office of Data, Research, and Vital Statistics	Ch. 16	Gender Marker on Birth Record Rule ( <i>New</i> )	22 MRS §2705	Routine Technical	No	7/13/2020
2020-092	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 21	Rules for the Provision of Payments for Residential Programs Serving Children	22 MRS §§ 42(8), 3174-Z, 4062; 5 MRS §8073	Major Substantive	Yes	4/10/2020
2020-210	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 34	Child Care Provider Background Check Licensing Rule ( <i>New</i> )	22 MRS §§ 42(1), 8302-A(1)(J), (2)(K); 5 MRS §8073; 42 USC §9858f(b)	Major Substantive	Yes	9/25/2020
2020-251	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 202	Child Protective Central Case Record Research Fee	22 MRS §4008(6)(D)	Routine Technical	No	12/23/2020

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2020-203	12-170	Department of Labor, Bureau of Labor Standards	Ch. 18	Rules Governing Earned Paid Leave <i>(New)</i>	26 MRS §§ 42, 637	Routine Technical	No	1/1/2021
2020-253	12-179	Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health	Ch. 2	Occupational Safety and Health Standards for General Industry Employment in the Public Sector	26 MRS §565	Routine Technical	No	12/26/2020
2020-056	12-179	Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health	Ch. 3	Occupational Safety and Health Standards for Construction Industry Employment in the Public Sector	26 MRS §565	Routine Technical	No	3/22/2020
2020-034	12-180	Department of Labor, Maine Labor Relations Board	Ch. 10	General Rules	26 MRS §968(3)	Routine Technical	No	4/1/2020
2020-035	12-180	Department of Labor, Maine Labor Relations Board	Ch. 11	Bargaining Unit Composition and Representation Matters	26 MRS §968(3)	Routine Technical	No	4/1/2020
2020-036	12-180	Department of Labor, Maine Labor Relations Board	Ch. 12	Prohibited Practice Complaints; Interpretive Rulings	26 MRS §968(3)	Routine Technical	No	4/1/2020
2020-037	12-180	Department of Labor, Maine Labor Relations Board	Ch. 13	Resolution of Contract Negotiation Disputes	26 MRS §968(3)	Routine Technical	No	4/1/2020

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2020-193	13-188	Department of Marine Resources	Ch. 2	Aquaculture Lease Regulations	12 MRS §§ 6072, 6072-A, 6072-B	Routine Technical	No	8/26/2020
2020-039	13-188	Department of Marine Resources	Ch. 8	Landings Program (Bait)	12 MRS §6173	Routine Technical	No	3/15/2020
2020-040	13-188	Department of Marine Resources	Ch. 8	Landings Program (Aquaculture Reporting)	12 MRS §6173	Routine Technical	No	1/1/2021
2020-227	13-188	Department of Marine Resources	Ch. 10	Clams and Quahogs	12 MRS §6171	Routine Technical	No	11/9/2020
2020-007	13-188	Department of Marine Resources	Ch. 11	Scallops. 11.08, Targeted Scallop Conservation Closures: (9) Upper Narraguagus Bay	12 MRS §6171(3)	Routine Technical	Yes	1/5/2020
2020-011	13-188	Department of Marine Resources	Ch. 11	Scallops:11.08, Targeted Scallop Conservation Closures: (10) Chandler and Eastern Bays	12 MRS §6171(3)	Routine Technical	Yes	1/19/2020
2020-020	13-188	Department of Marine Resources	Ch. 11	Scallops:11.08, Targeted Scallop Conservation Closures: (11) Middle Penobscot Bay Islands; (12) Somes Sound and Cranberry Islands	12 MRS §6171(3)	Routine Technical	Yes	2/2/2020
2020-027	13-188	Department of Marine Resources	Ch. 11	Scallops:11.08, Targeted Scallop Conservation Closures: (13) Cobscook, Whiting and Dennys Bays	12 MRS §6171(3)	Routine Technical	Yes	2/16/2020
2020-228	13-188	Department of Marine Resources	Ch. 11	Scallops:(2020-21 Season)	12 MRS §§ 6171, 6722	Routine Technical	No	11/9/2020
2020-194	13-188	Department of Marine Resources	Ch. 26	Sea Urchins (2020-2021 Season)	12 MRS §§ 6171, 6749	Routine Technical	No	8/26/2020
2020-041	13-188	Department of Marine Resources	Ch. 30	River Herring Pilot Project Exemption	12 MRS §6171	Routine Technical	No	3/15/2020
2020-042	13-188	Department of Marine Resources	Ch. 32	Eels and Elvers (Elver Quota System for the 2020 Season)	12 MRS §§ 6505-A, 6865	Routine Technical	No	3/15/2020
2020-059	13-188	Department of Marine Resources	Ch. 32	Eels and Elvers: 32.03, Elver Harvesting Regulations Area	12 MRS §6171-A	Routine Technical	Yes	3/22/2020

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2020-064	13-188	Department of Marine Resources	Ch. 32	Eels and Elvers: 32.03, Elver Harvesting Regulations Area	12 MRS §6171-A	Routine Technical	Yes	3/29/2020
2020-115	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.07, Atlantic Halibut Emergency Regulations	12 MRS §6171(3)(C)	Routine Technical	Yes	5/6/2020
2020-202	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.06, Recreational Groundfish Restrictions	12 MRS §6171(3)(C)	Routine Technical	Yes	8/28/2020
2020-229	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.06, Recreational Groundfish Restrictions	12 MRS §6171	Routine Technical	No	11/9/2020
2020-043	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (2020 Harvest Framework)	12 MRS §6171	Routine Technical	No	3/15/2020
2020-133	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (2020 Harvest Rules)	12 MRS §6171	Routine Technical	Yes	5/30/2020
2020-189	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (Zero Landing Days)	12 MRS §6171	Routine Technical	Yes	8/22/2020
2020-216	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (Season 2 Opens)	12 MRS §6171	Routine Technical	Yes	10/6/2020
2020-230	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (Modify Season 2)	12 MRS §6171	Routine Technical	Yes	11/3/2020
2020-044	13-188	Department of Marine Resources	Ch. 40	Smelt Regulations	12 MRS §6171	Routine Technical	No	3/15/2020
2020-045	13-188	Department of Marine Resources	Ch. 41	Menhaden (2020 Season)	12 MRS §6171	Routine Technical	No	3/15/2020
2020-147	13-188	Department of Marine Resources	Ch. 41	Menhaden: 41.30, Menhaden Fishery Management Program (re: Menhaden Open Episodic Event Set Aside (EESA) Program)	12 MRS §6171(3)(A)	Routine Technical	Yes	6/27/2020
2020-151	13-188	Department of Marine Resources	Ch. 41	Menhaden: 41.30(3), Episodic Event Fishery	12 MRS §6171(3)(A)	Routine Technical	Yes	7/2/2020
2020-231	13-188	Department of Marine Resources	Ch. 41	Menhaden (Program Update)	12 MRS §§ 6171, 6502-C	Routine Technical	No	11/9/2020

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2020-046	13-188	Department of Marine Resources	Ch. 42	Striped Bass	12 MRS §6171	Routine Technical	No	3/15/2020
2020-248	13-188	Department of Marine Resources	Ch. 42	Striped Bass: 42.01, Statewide Striped Bass Size Restrictions, Harvest Methods	12 MRS §6171(3)(C)	Routine Technical	Yes	12/16/2020
2020-195	13-188	Department of Marine Resources	Ch. 50	Spiny Dogfish and Coastal Sharks	12 MRS §6171	Routine Technical	No	8/26/2020
2020-047	13-188	Department of Marine Resources	Ch. 55	Gear Restrictions	12 MRS §6171	Routine Technical	No	3/15/2020
2020-097	13-188	Department of Marine Resources	Ch. 75	Protected Resources (Gear Marking Exception)	12 MRS §6171	Routine Technical	No	4/21/2020

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2020-214	15-215	Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans Services	Ch. 3	Administration of the Veteran's Homelessness Prevention Coordination Program <i>(New)</i>	37-B MRS §513-A	Routine Technical	No	10/5/2020



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2020-058	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 52	Certification Standards for Municipal Code Enforcement Officers and Third-Party Inspectors <i>(New)</i>	30-A MRS §4451	Routine Technical	No	3/25/2020
2020-135	16-633	Department of Public Safety, Gambling Control Board	Ch. 29	Promotional Credits and Other Player Incentives <i>(New)</i>	8 MRS §§ 2001(26), 1003(1)(B), (2)(1), (3)(E), (3)(J)	Routine Technical	No	6/8/2020

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2020-226	17-229	Department of Transportation	Ch. 205	Rules for Administering the <i>Maine Traveler Information Services Act</i>	23 MRS §§ 52, 1925	Routine Technical	No	11/8/2020
2020-062	17-229	Department of Transportation	Ch. 800	Autonomous Vehicle Pilot Program Rules ( <i>New</i> )	23 MRS §§ 52; Resolves 2018 ch. 46; HP 1204 - LD 1724	Routine Technical	No	4/1/2020
2020-177	17-387	Department of Transportation, Maine Pilotage Commission	Ch. 1	Rules and Regulations	38 MRS §90	Routine Technical	No	8/10/2020

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2020-130	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services	Ch. 202	Tree Growth Tax Law Valuations - 2020	36 MRS §576	Routine Technical	No	6/3/2020
2020-254	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services	Ch. 807	Residency	36 MRS §§ 112, 5102(5)	Routine Technical	No	12/26/2020
2020-219	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services	Ch. 812	Credit for Educational Opportunity	36 MRS §§ 112, 5217-D	Routine Technical	Yes	10/21/2020
2020-026	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 1	Adult Use Marijuana Program Rule	Title 28-B	Routine Technical	No	2/20/2020
2020-143	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 1	Adult Use Marijuana Program Rule	Title 28-B	Routine Technical	Yes	6/26/2020
2020-204	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 1	Adult Use Marijuana Program Rule	Title 28-B	Routine Technical	No	9/18/2020
2020-183	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 3	Emergency Rule Regarding the Assessment of Excise Taxes for Adult Use Marijuana Program Cultivation Licensees	Title 28-B, specifically §§ 104, 501	Major Substantive	Yes	8/20/2020
2020-144	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 5	Rules for the Certification of Marijuana Testing Facilities (and Emergency Additions Regarding Samlet Collection)	Title 22-B ch. 1; 22 MRS §569; PL 2019 ch. 676	Routine Technical	Yes	6/26/2020
2020-205	18-691	Department of Administrative and Financial Services, Office of Marijuana Policy	Ch. 5	Rules for the Certification of Marijuana Testing Facilities	Title 22-B ch. 1; 22 MRS §569	Routine Technical	No	9/18/2020

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2020-008	19-100	Department of Economic and Community Development	Ch. 100	Pine Tree Development Zone Program	PL 2009 ch. 337	Routine Technical	No	1/13/2020
2020-009	19-100	Department of Economic and Community Development	Ch. 400	Employment Tax Increment Financing	PL 2011 ch. 655	Routine Technical	No	1/13/2020

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2020-155	29-250	Secretary of State, Bureau of Motor Vehicles	Ch. 11	Rules Governing Motorcycle Rider Education	29-A MRS §153	Routine Technical	No	7/4/2020
2020-156	29-250	Secretary of State, Bureau of Motor Vehicles	Ch. 103	Rules for Vehicle Dealers, Auctions, Transporters, Recyclers, Mobile Crushers, and Loaners	29-A MRS §153; 10 MRS §1169(11); ch. 217 sub-§§ 1474, 1475	Routine Technical	No	7/4/2020
2020-223	29-250	Secretary of State, Bureau of Corporations, Elections and Commissions	Ch. 525	Rules for Administering the Central Issuance and Processing of UOCAVA Absentee Ballots	21-A MRS §783	Routine Technical	Yes	10/28/2020
2020-238	29-255	Secretary of State, Maine State Archives	Ch. 1	State and Local Government Agency Records Programs	5 MRS ch.6 §95	Routine Technical	No	11/29/2020
2020-239	29-255	Secretary of State, Maine State Archives	Ch. 2	State Records Center Facilities and Services	5 MRS ch.6 §95	Routine Technical	No	11/29/2020
2020-240	29-255	Secretary of State, Maine State Archives	Ch. 3	Imaging State Records	5 MRS ch.6 §95	Routine Technical	No	11/29/2020
2020-241	29-255	Secretary of State, Maine State Archives	Ch. 4	Rules for the Public Use of Materials and Facilities in the Maine State Archives	5 MRS ch.6 §95	Routine Technical	No	11/29/2020

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2020-103	65-407	Maine Public Utilities Commission	Ch. 290	Standards for Billing, Credit and Collection, and Customer Information for Eligible Telecommunications Carriers Providing Basic Telephone Service	35-A MRS §§ 104, 111, 704, 705, 716	Routine Technical	No	4/28/2020
2020-091	65-407	Maine Public Utilities Commission	Ch. 311	Portfolio Requirement	35-A MRS §§ 104, 111, 1301,3203(9), 3210, 3210-B; PL 2019 ch. 477	Major Substantive	No	5/7/2020
2020-245	65-407	Maine Public Utilities Commission	Ch. 311	Portfolio Requirement	35-A MRS §§ 104, 111, 1301,3203(9), 3210, 3210-B; PL 2019 ch. 477	Routine Technical	No	12/15/2020
2020-096	65-407	Maine Public Utilities Commission	Ch. 319	Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires	35-A MRS §§ 104, 111, 1301; PL 2019 ch. 298	Routine Technical	Yes	4/15/2020
2020-161	65-407	Maine Public Utilities Commission	Ch. 319	Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires	35-A MRS §§ 104, 111, 1301; PL 2019 ch. 298	Routine Technical	No	7/21/2020
2020-113	65-407	Maine Public Utilities Commission	Ch. 320	Electric Transmission and Distribution Utility Service Standards	35-A §§ 104, 111, 2305-A, 3104-A, 3106; PL 2019 ch.104	Routine Technical	No	5/6/2020
2020-050	65-407	Maine Public Utilities Commission	Ch. 324	Small Generator Interconnection Procedures	35-A MRS §§ 104, 111; PL 2019 ch. 478	Routine Technical	No	3/15/2020

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2020-005	65-407	Maine Public Utilities Commission	Ch. 440	Gas Utility Meter Performance, Accuracy, testing, and Related Standards <i>(New)</i>	35-A MRS §§ 104, 111	Routine Technical	No	1/11/2020
2020-104	65-407	Maine Public Utilities Commission	Ch. 660	Consumer Protection Standards for Water Utilities	35-A MRS §§ 104, 111, 704, 716, 1308	Routine Technical	No	4/28/2020
2020-028	65-407	Maine Public Utilities Commission	Ch. 815	Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities	35-A MRS §§ 104, 111, 704, 1308; PL 2019 ch. 26, ch. 81, ch. 88	Routine Technical	No	2/23/2020
2020-061	65-625	Maine Public Utilities Commission, Emergency Services Communications Bureau	Ch. 5	Standards for the Implementation and Administration of Emergency Fire Dispatch Protocols	25 MRS §2927(3-C)(A)	Routine Technical	No	3/31/2020

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2020-018	90-590	Maine Health Data Organization	Ch. 10	Determination of Assessments	22 MRS §§ 8704 sub-§4, 8706 sub-§2; PL 2019 ch. 470	Routine Technical	No	2/4/2020
2020-134	90-590	Maine Health Data Organization	Ch. 100	Enforcement Procedures	22 MRS §§ 8705-A; PL 2019 ch. 470	Major Substantive	No	7/3/2020
2020-217	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	10/12/2020
2020-052	90-590	Maine Health Data Organization	Ch. 300	Uniform Reporting System for Hospital Financial Data	22 MRS §§ 8704 sub-§4, 8709	Routine Technical	No	3/16/2020
2020-019	90-590	Maine Health Data Organization	Ch. 570	Uniform Reporting System for Prescription Drug Price Data Sets <i>(New)</i>	22 MRS §§ 8703(1), 8704(1), 8705-A and 8705-A(3), 8731, 8732, 8733, 8734, 8735, 8737	Routine Technical	No	2/4/2020



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2020-054	94-178	Kim Wallace Adaptive Equipment Loan Program Fund Board	Ch. 502	Procedures Governing Administration of the Adaptive Equipment Loan Program Fund Board	10 MRS §374	Routine Technical	No	3/18/2020

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2020-038	94-293	Baxter State Park Authority	Ch. 1	Baxter State Park Rules and Regulations: Rule 4.5	12 MRS §903.1	Routine Technical	No	3/9/2020

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2020-255	94-411	Maine Public Employees Retirement System	Ch. 202	Medical Board	5 MRS §17103(4)	Routine Technical	No	12/26/2020
2020-093	94-411	Maine Public Employees Retirement System	Ch. 511	Standards for Actively Seeking Work	5 MRS §17103(4)	Routine Technical	Yes	4/14/2020
2020-157	94-411	Maine Public Employees Retirement System	Ch. 511	Standards for Actively Seeking Work	5 MRS §17103(4)	Routine Technical	No	7/18/2020
2020-094	94-411	Maine Public Employees Retirement System	Ch. 601	Group Life Insurance	5 MRS §17103(4)	Routine Technical	Yes	4/14/2020
2020-158	94-411	Maine Public Employees Retirement System	Ch. 601	Group Life Insurance	5 MRS §17103(4)	Routine Technical	No	7/18/2020
2020-095	94-411	Maine Public Employees Retirement System	Ch. 702	Appeals of Decisions of the Executive Director	5 MRS §17103(4)	Routine Technical	Yes	4/14/2020
2020-159	94-411	Maine Public Employees Retirement System	Ch. 702	Appeals of Decisions of the Executive Director	5 MRS §17103(4)	Routine Technical	No	7/18/2020
2020-160	94-411	Maine Public Employees Retirement System	Ch. 803	Participating Local District Consolidated Retirement Plan	5 MRS §17103(4)	Routine Technical	No	7/18/2020
2020-236	94-411	Maine Public Employees Retirement System	Ch. 803	Participating Local District Consolidated Retirement Plan	5 MRS §17103(4)	Routine Technical	No	11/25/2020

Annual List of Rule-making Activity  
Rules Adopted 1/1/2020 to 12/31/2020  
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-212	94-457	Finance Authority of Maine	Ch. 307	Maine Seed Capital Tax Program, <i>Amendment 9</i>	10 MRS ch. 110 sub-ch. 1 §969-A(14); sub-ch. 9 §1100-T	Routine Technical	No	10/5/2020
2020-006	94-457	Finance Authority of Maine	Ch. 619	Foreign Credentialing and Skills Recognition Revolving Loan Program <i>(New)</i>	PL 2019 ch. 447	Routine Technical	No	1/12/2020

Annual List of Rule-making Activity  
Rules Adopted 1/1/2020 to 12/31/2020  
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-152	99-346	Maine State Housing Authority	Ch. 16	Low Income Housing Tax Credit Rule	30-A MRS §§ 4741(1) and (14); Section 42 of the Internal Revenue Code of 1986, <i>as amended</i>	Routine Technical	No	7/12/2020
2020-153	99-346	Maine State Housing Authority	Ch. 24	Home Energy Assistance Program Rule	30-A MRS §§ 4722(1)(W), 4741(1) and (15), 4991 <i>et seq</i> ; 42 USCA §§ 8621 <i>et seq.</i>	Routine Technical	No	7/12/2020
2020-218	99-346	Maine State Housing Authority	Ch. 35	State Low Income Housing Tax Credit Rule ( <i>New</i> )	30-A MRS §§ 4722, 4741.1; 36 MRS §5219-WW	Routine Technical	No	10/13/2020

Annual List of Rule-making Activity  
Rules Adopted 1/1/2020 to 12/31/2020  
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Eff. Date
2020-132	99-626	Maine Rural Development Authority	Ch. 3	Rural Manufacturing and Industrial Site Redevelopment Program, Amendment 1	5 MRS §§ 13120-L, 13120-R	Routine Technical	No	6/7/2020



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §§ 2301-2303  
**Chapter number/title:** Ch. 266, Hemlock Woolly Adelgid Quarantine  
**Filing number:** 2020-048  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To prevent the spread of Hemlock Woolly Adelgid, a highly destructive pest of Eastern Hemlock trees, within the State of Maine.

**Basis statement:**

Since 1988, the State of Maine has imposed a quarantine to prevent the introduction of hemlock woolly adelgid (HWA). The current rule prohibits the importation of hemlock plants and plant products including nursery stock, logs and lumber with bark from many states and counties in the United States as well as parts of Canada that have been designated as infested with HWA. It also specifies requirements that persons must meet in order to import hemlock plants and plant products from non-infested areas of the United States.

The quarantine has not been entirely successful since an annual survey in 2003 detected this highly destructive pest on native hemlocks in one town in York County. HWA has now been detected all along the Maine coast as far north as Mount Desert Island.

The quarantine area will be amended to include the entire counties of York, Knox, Lincoln and Sagadahoc and towns and minor civil divisions within Androscoggin, Cumberland, Hancock, Kennebec and Waldo counties. This includes both infested and un-infested towns. HWA has expanded rapidly in the last few years and traditionally plant pests with this spread are regulated at the county level. Maine has decided to regulate at the subcounty level because counties are large, and the Department will continue to conduct a standardized annual survey on the edge of the quarantine area to monitor spread. Because of these factors and the fact that amending regulations is a slow process it seemed prudent to include buffer towns in the quarantine area. In addition, the amendment will include counties from other states that have become infested since the rule was last amended in 2013.

The Secretary of State published a newspaper notice on January 23, 2020 and over 5,657 companies and individuals representing municipal, arboriculture, horticulture and forestry interests in the state were notified electronically. No public hearings were held.

The comment period ended on February 28, 2020 with one email comment from a wood broker and sawmill owner who was not aware that HWA had been detected in Penobscot Bay area and in Hancock County. The landowner mentioned that his businesses had already made adjustments to reduce the potential for HWA spread.

The Department's staff reviewed the hearing record on March 2, 2020 and noted there had been no opposition to the proposed changes. The Department therefore felt very comfortable amending Ch. 266 as proposed.

**Fiscal impact of rule:**

The fiscal impact of the proposed rule will be minor. It may require additional inspection work, which will be scheduled, as much as possible, when other inspection work is taking place. It may limit the availability of hemlock nursery stock to homeowners and landscapers, but alternate trees and shrubs are available, and the Department will work with the nursery industry to seek additional alternatives. If this rule is not adopted, and the Hemlock Woolly Adelgid moves into other areas of the State's native hemlock resource, the fiscal impact to the state, forest product companies, and the habitat of many species of wildlife, will be significant. We would not expect the economic impact to be above \$1,000,000.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §2231  
**Chapter number/title:** Ch. 274, Rules for Growing Hemp  
**Filing number:** 2020-015  
**Effective date:** 2/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To implement statutory changes including new indoor growing license and reporting requirements. Public Law ch. 528.

**Basis statement:**

In September 2019 changes to Title 7 MRS ch. 406-A §2231, Hemp, instructed the Department to adopt rules establishing guidelines for monitoring the growth and harvest of hemp grown indoors and amended many definitions and the licensing process. It also added reporting requirements and made grower location data confidential. The rule presented here was written to comply with statute as amended.

The Secretary of State published a notice on December 18, 2020 and on the same day 192 growers and 1200 individuals on the hemp GovDelivery list were notified electronically about the proposed rule. A public hearing was held in Augusta on January 7, 2020 with approximately 75 people in attendance and 17 people providing comment on the rule.

The comment period ended on January 20, 2020 with 6 additional people submitting emailed comments and 2 speakers from the public hearing submitting additional emailed comments. No comments were received in the mail.

The Department's staff reviewed the hearing record and written comments on January 27, 2020 and noted most comments centered on the THC standard, proposed outdoor growing fee increase, remediation of non-compliant hemp, the definition of hemp, sampling protocols and a few other issues.

Upon further analysis the Department determined that it could make the definition of hemp consistent with the 2018 Farm Bill and USDA-AMS interim rule definition which also amends the THC standard. This was done to respond to many comments concerned that the total THC standard would prevent farmers from growing the CBD varieties of hemp which they need to grow to be profitable. The Department also agreed with multiple commenters that it is not a good time to raise the per acre outdoor growing licensing agreement fee from \$50.00 per acre to \$100.00 per acre. It will keep the fee at \$50.00 per acre for the 2020 growing season and re-evaluate the need for fee changes for the 2021 season after submitting a plan to USDA for approval. Despite multiple comments requesting that the Department add rules for remediation of non-compliant hemp, the Department has decided to leave the rule language as is and to use its enforcement discretion in cases where hemp is found to be above 0.3% Δ9 THC. Commenters also requested that the hemp sampling protocol be incorporated into these rules, but the Department prefers to leave sampling protocols outside of the rules to allow for flexibility as the science is evolving. One commenter suggested adding a definition for "planting date" and the Department agrees and has added a new definition. Many other comments were received and responded to in the summary of comments. Most were either outside of the jurisdiction of the Hemp Program or were contrary to the enabling statute.

The Department amended the rule to change the THC standard, definition of hemp, remove the fee increase and added the definition of "planting date" and decided to adopt the rule as amended.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Fiscal impact of rule:**

The fiscal impact will depend on the level of participation. This program is required to be self-funded, so the intention is to collect adequate fees to run the program. If at least 100 growers participate there should be minimal fiscal impact; if not there will be a fiscal impact on the Department.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §§ 2301-2303  
**Chapter number/title:** Ch. 275, Emerald Ash Borer Quarantine  
**Filing number:** 2020-049  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To prevent the spread of Emerald Ash Borer, a highly destructive pest of all types of true ash trees, within the State of Maine.

**Basis statement:**

Emerald Ash Borer (EAB) has been a federally regulated pest since 2010. It has already killed millions of ash trees from Minnesota to Texas and Georgia to New Hampshire. Soon we will see the first tree mortality in Maine.

Unfortunately, only a fraction of a percent of Maine's more than 400 million stems of white, green and black/brown ash are expected to survive this insect's attack. The first detection for emerald ash borer in Maine was in Madawaska on May 22, 2018 and subsequent infestations were found in Frenchville and Grand Isle. In September of 2018 EAB was detected on monitoring traps in Lebanon and Acton. It was also detected in trees in Acton and Berwick in February 2019. In October and November of 2019 EAB was found in a monitoring trap in Payson Park in Portland and in girdled trap trees in the towns of Alfred, Kittery, and Limington.

After the 2018 and early 2019 discoveries, the State adopted a quarantine of the northeast corner of Aroostook County and all of York County. Ch. 275 became law on April 10, 2019. This amendment extends the quarantine to encompass the newly discovered populations and provides a two to three town buffer area around the infested towns.

The Secretary of State published a newspaper notice on January 23, 2020 and over 5,657 companies and individuals representing municipal, arboriculture, horticulture and forestry interests in the state were notified electronically. No public hearings were held.

The comment period ended on February 28, 2020 and only three comments were received. A summary of comments and responses to those comments are published in a separate document. Two comments were in support of the quarantine expansion and one was from a firewood dealer concerned about restrictions on firewood movement across the Maine/New Hampshire border. However, the quarantine expansion has no bearing in this situation since movement of firewood was previously restricted by separate firewood laws in both Maine and New Hampshire. Maine Forest Service and the New Hampshire Division of Forests and Lands will work with the firewood dealer to develop compliance agreements to help facilitate the movement of their firewood.

The Department's staff reviewed the comments on March 2, 2020 and noted that none of the comments compelled changes to the proposed rule. The Department therefore felt very comfortable adopting Ch. 275 to create a quarantine to regulate the northeast corner of Aroostook County and all of Cumberland and York Counties and the five most southwestern towns in Oxford County.

**Fiscal impact of rule:**

The fiscal impact of the proposed rule on state government should be minor. The state will continue to monitor the spread of EAB with funds provided by USDA-APHIS. Education and enforcement have already been ongoing and should continue with a minor increase in effort. Impacts on firewood dealers could be significant if their market area is reduced or if they need to purchase a drying kiln. Municipalities could suffer major budget impacts from the eventual need to remove or treat roadside or park ash trees, however the quarantine should help slow the spread and allow the towns time to prepare. Finally, Wabanaki tribal basket makers may be significantly impacted if brown/black ash resources are restricted or lost due to EAB and the quarantine. We would not expect the economic impact to be above \$1,000,000.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Umbrella-Unit:** 01-001  
**Statutory authority:** 22 MRS §§ 2154, 2517-E sub-§3  
**Chapter number/title:** Ch. 332, Rabbit Processing  
**Filing number:** 2020-014  
**Effective date:** 2/3/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

RABBIT PROCESSING is an existing rule that has not been updated since its adoption in July 27, 1987. Revision of the rule sets the same standards for all rabbit processors at the same time updating the rule to take advantage of current advances in food science and food safety. The proposed rule has been updated to include construction, design and sanitary operation requirement all in accordance with good manufacturing practices. It also addresses, the health and humane treatment of rabbits and establishes lot coding, recordkeeping and labeling requirements to enhance consumer protection.

**Fiscal impact of rule:**

While current licensed rabbit processors are required to utilize good manufacturing practices, it would be expected that establishments would be minimally affected. Any costs associated by industry to meet the regulatory requirements would be that of routine upgrade and maintenance. New establishments would consider the rule as guidance in their business model for design, construction, and operating costs.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Umbrella-Unit:** 01-001  
**Statutory authority:** 22 MRS §§ 2154, 2517-E sub-§3  
**Chapter number/title:** **Ch. 361**, On Farm Raising, Slaughter and Processing of Less Than 1000 Rules Ready-to-Cook Whole Rabbits Carcasses (*New*)  
**Filing number:** 2020-016  
**Effective date:** 2/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

Ch. 361 is being adopted to implement the statutory requirement enacted by the 129th Legislature. 22 MRS §2512 sub-§1 exempts a processor of fewer than 1000 rabbits of their own raising from the statutory licensing requirement. 22 MRS §2517-E sub-§3 requires the Department to establish requirements for the physical facilities and processes used by rabbit producers whose rabbit products are exempt. Ch. 332, *Rabbit Processing*, are those rules.

**Fiscal impact of rule:**

While current licensed rabbit processors are required to utilize good manufacturing practices, it would be expected that establishments would be minimally affected. Any costs associated by industry to meet the regulatory requirements would be that of routine upgrade and maintenance. New establishments would consider the rule as guidance in their business model for design, construction, and operating costs.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #02-20**  
**Filing number:** **2020-013**  
**Effective date:** 2/2/2020  
**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 2020** minimum Class I price is **\$20.80/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.93/cwt.** handling fee for a total of **\$24.50/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.86.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$19.37/cwt.** and a Class IV price of **\$16.70/cwt.** for **December 2019.**

The Class II price for **December 2019** is **\$16.81/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 **\$20.80/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on January 23, 2020 and therefore should be passed on in minimum prices effective February 2, 2020. These prices also include a handling fee of \$0.93/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #03-20**

**Filing number:** **2020-032**

**Effective date:** 3/1/2020

**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 2020** minimum Class I price is **\$29.71/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.93/cwt.** handling fee for a total of **\$24.41/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.85**.

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$17.05/cwt.** and a Class IV price of **\$16.65/cwt.** for **January 2020**.

The Class II price for **January 2020** is **\$17.05/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 **\$20.71/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on February 20, 2020 and therefore should be passed on in minimum prices effective March 1, 2020. These prices also include a handling fee of \$0.93/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #04-20**

**Filing number:** **2020-060**

**Effective date:** 3/29/2020

**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 2020** minimum Class I price is **\$19.89/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$24.11/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.81**.

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$17.00/cwt.** and a Class IV price of **\$16.20/cwt.** for **February 2020**.

The Class II price for **February 2020** is **\$16.84/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 **\$19.89/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on March 19, 2020 and therefore should be passed on in minimum prices effective March 29, 2020. 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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #05-20**

**Filing number:** **2020-110**

**Effective date:** 5/3/2020

**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 2020** minimum Class I price is **\$16.20/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$4.65/cwt.** handling fee for a total of **\$23.72/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.85.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$16.25/cwt.** and a Class IV price of **\$14.87/cwt.** for **March 2020.**

The Class II price for **March 2020** is **\$16.75/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 **\$16.20/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on April 23, 2020 and therefore should be passed on in minimum prices effective May 3, 2020. 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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #06-20**

**Filing number:** **2020-127**

**Effective date:** 5/31/2020

**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 2020** minimum Class I price is **\$14.67/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$6.05/cwt.** handling fee for a total of **\$23.59/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.81**.

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$13.07/cwt.** and a Class IV price of **\$11.40/cwt.** for **April 2020**.

The Class II price for **April 2020** is **\$13.87/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 **\$14.67/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on May 21, 2020 and therefore should be passed on in minimum prices effective May 31, 2020. These prices also include a handling fee of \$6.05/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #07-20**

**Filing number:** **2020-142**

**Effective date:** 6/28/2020

**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 2020** minimum Class I price is **\$19.81/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$24.08/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.87.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$12.14/cwt.** and a Class IV price of **\$10.67/cwt.** for **May 2020.**

The Class II price for **May 2020** is **\$12.30/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 **\$19.81/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on June 18, 2020 and therefore should be passed on in minimum prices effective June 28, 2020. 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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #08-20**

**Filing number:** **2020-170**

**Effective date:** 8/2/2020

**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 2020** minimum Class I price is **\$23.03/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$26.37/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$4.09.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$21.04/cwt.** and a Class IV price of **\$12.90/cwt.** for **June 2020.**

The Class II price for **June 2020** is **\$12.99/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 **\$23.03/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on July 23, 2020 and therefore should be passed on in minimum prices effective August 2, 2020. These prices also include a handling fee of \$0.47/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #09-20**

**Filing number:** **2020-192**

**Effective date:** 8/30/2020

**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 2020** minimum Class I price is **\$21.69/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$25.03/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.98.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$24.54/cwt.** and a Class IV price of **\$13.76/cwt.** for **July 2020.**

The Class II price for **July 2020** is **\$13.79/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 **\$21.69/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on August 20, 2020 and therefore should be passed on in minimum prices effective August 30, 2020. These prices also include a handling fee of \$0.47/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #10-20**

**Filing number:** **2020-211**

**Effective date:** 10/4/2020

**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 **October 2020** minimum Class I price is **\$18.45/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.79/cwt.** handling fee for a total of **\$24.11/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.88.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$19.77/cwt.** and a Class IV price of **\$12.53/cwt.** for **August 2020.**

The Class II price for **August 2020** is **\$13.27/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 **\$18.45/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on September 24, 2020 and therefore should be passed on in minimum prices effective October 4, 2020. These prices also include a handling fee of \$2.79/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #11-20**

**Filing number:** **2020-224**

**Effective date:** 11/1/2020

**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 2020** minimum Class I price is **\$21.29/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.63/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.93.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$16.43/cwt.** and a Class IV price of **\$12.75/cwt.** for **September 2020.**

The Class II price for **September 2020** is **\$13.16/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 **\$21.29/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on October 22, 2020 and therefore should be passed on in minimum prices effective November 1, 2020. These prices also include a handling fee of \$0.47/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #12-20**

**Filing number:** **2020-235**

**Effective date:** 11/29/2020

**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 2020** minimum Class I price is **\$23.12/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$26.46/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$4.10.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$21.61/cwt.** and a Class IV price of **\$13.47/cwt.** for **October 2020.**

The Class II price for **October 2020** is **\$13.63/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 **\$22.12/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on November 19, 2020 and therefore should be passed on in minimum prices effective November 29, 2020. These prices also include a handling fee of \$0.47/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 #01-21**

**Filing number:** **2020-256**

**Effective date:** 1/3/2021

**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 2021** minimum Class I price is **\$18.39/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.05/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.87.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking 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 **\$23.34/cwt.** and a Class IV price of **\$13.30/cwt.** for **November 2020.**

The Class II price for **November 2020** is **\$13.86/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 **\$18.39/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on December 23, 2020 and therefore should be passed on in minimum prices effective January 3, 2021. These prices also include a handling fee of \$2.79/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 Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 27**, Retail Margins

**Filing number:** **2020-063**

**Effective date:** 4/1/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to establish retail margins for milk sold within the State of Maine in accordance with 7 MRS §2954 using information from the latest Retail Margins study.

**Basis statement:**

A public hearing on this rule was held on February 20, 2020, and a written comment period was open through March 3, 2020. A representative from Herbein & Co. presented the results of the retail margin study at the public hearing. No testimony was offered nor were written comments received. The Commission voted to adopt the new retail margins at their meeting held on March 19, 2020.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 1, Administration**

**Filing number:** **2020-112**

**Effective date:** 5/1/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

During the COVID-19 pandemic, with the entire harness racing industry shut and no prospects for income, the Commission reasoned it was reasonable to issue licenses to participants prior to receiving the license fee.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the licensing of participants, a component of harness racing, that is contained in ch. 1 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to free up cash flow of the participants by suspending the requirement that license applicants submit the application fee before a license can be issued. Consequently, the Commission has determined that the immediate adoption of these rules is necessary to mitigate an immediate threat to the general welfare of the industry and the Standardbred horses.

This emergency rule shall take effect on the date specified in the rule and will be in effect for ninety days subsequent to its effective date.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 5, Tracks**

**Filing number:** **2020-171**

**Effective date:** 7/31/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

With the COVID-19 pandemic all of the pari-mutuel fairs have cancelled for the 2020 racing season and have relinquished the race dates that have been awarded to them. This change in rule allows any association that has cancelled the races for 2020 to return purse money to the state and be redistributed to the tracks that are racing. The changes in rule is from August 1, 2020 through November 1, 2020.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the tracks, a component of harness racing, that are contained in ch. 5 of the Commission rules.

On July 28, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by adopting an emergency amendment that speaks to situations in which multiple Maine tracks were awarded race dates and received purse funds but are unable to race due to a public health emergency. The rule amendment clarifies that tracks may request to carry over purse funds and return purse funds for redistribution to tracks that continue to race. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

Therefore, the Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054 and voted to temporarily waive the requirement for Commission approval of the base purse.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days subsequent to their effective date.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 263-C, 264, 267-A, 268, 272-B, 272-C, 279,  
279-A, 279-E, 281, 298 §279-A

**Chapter number/title:** **Ch. 5, Tracks**

**Filing number:** **2020-249**

**Effective date:** 12/22/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The statutory schedules and formulas for disbursing purse funds to tracks do not allow for adjustments necessary when tracks are unable to race, when a track closes or when a new track opens. This rule gives the Commission authority to make necessary adjustments while remaining true to the statutory intent of maintaining purse equity between all licensed tracks.

**Basis statement:**

The Maine State Harness Racing Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission proposed to amend CMR 01-017 ch. 5 for two principle reasons: 1) the Commission requires flexibility to adjust purse supplement distributions when circumstances result in inequity between tracks, and 2) tracks no longer play a role in submitting purse supplement assessments to the statewide association of horsemen pursuant 8 MRS §272-B. Therefore, rule language relating to submission of the assessments must be removed from the rule chapter that specifically details duties/responsibilities of licensed tracks. In addition to the two principle amendments, a handful of minor amendments were also considered by the Commission.

The Commission considered three verbal comments received during the public hearing on November 23, 2020, and three written comments received prior to the December 3 deadline. Based on the advice from legal counsel, the Commission determined that the “Department” manages disbursements in accordance with 8 MRS §263-C, and is therefore the correct term to reference in Section 5 of the rules when disbursements are made consistent with the statute or when a track closes. Conversely, the “Commission” is charged with public policy decisions relating to harness racing, and therefore is the correct entity to approve distributions that vary from the statute, which are all done in the context of approval of purse distribution plans. Consequently, the draft language was adjusted to codify this distinction more clearly.

The Commission found it advisable to 1) delete reference to “flush” toilets, since some fairs provide portable bathroom facilities, 2) to clarify that a speedometer on the starting car should be in working condition, and 3) to clarify that the ambulance requirement should be for the benefit of anyone in attendance at a licensed harness racing event.

The Commission did not agree with retaining certain components of section 7 relating to submitting purse supplement assessments to the statewide association of horsemen, because 1) tracks—which are the sole subject matter of ch. 5 — no longer have any role in the process, and 2) 8 MRS §272-B does not authorize the Commission to approve or disapprove the budget submitted by the statewide association.

At its December 11, 2020 meeting, the Commission found that the interests of Maine’s harness racing industry were best served by adopting the amendments to ch. 5 with the revisions described herein.

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 7, Racing**

**Filing number:** **2020-131**

**Effective date:** 6/1/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

During the COVID-19 pandemic, with the entire harness racing industry shut down. A delayed start of the season for Maine horsemen has resulted in no income since December 2019. Consequently, the Commission reasoned it was appropriate to award purse money to the first six finishers in each race in order to provide economic benefits to greater number of horsemen, thereby providing monetary support for the care of horses.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to broaden the number of horsemen who receive income by reconfiguring the purse distribution so that the first six finishers all receive a portion of the purse. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 7**, Racing

**Filing number:** **2020-172**

**Effective date:** 7/31/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To allow associations to make necessary changes to make it easier on them to offer live racing.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On July 28, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by allowing licensed associations to charge a COVID-19 mitigation fee for racing. The Commission also agreed that—if a licensed track and the horsemen's association agree—they can use a different purse payment structure than that specified in sections 75 and 76. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 7**, Racing

**Filing number:** **2020-184**

**Effective date:** 8/17/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To waive the requirement that a horse must requalify if they make a break on the next race after a qualifying race.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by temporarily waiving the requirement that a horse be placed on the Steward's List for breaking in its first race following a qualifying race as specified under section 7, subsection 2, paragraph G of ch. 7. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

**Fiscal impact of rule:**

None.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 9**, Sire Stakes

**Filing number:** **2020-149**

**Effective date:** 7/6/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

During the COVID-19 pandemic, it has been very difficult to establish a long-term schedule for the 2020 season as tracks are struggling to open. Due to the large degree of uncertainty relating to the 2020 season, the Commission elected to waive the requirements relating to setting the Sire Stakes schedule and setting the base purse.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the Sires Stakes program, a component of harness racing, that are contained in ch. 9 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending the 2020 race date awards as the result of the 2019 COVID 19 pandemic. The Commission has subsequently awarded new race dates monthly as opposed to on an annual basis.

The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. Therefore, to maintain the health and welfare of the animals utilized in the industry, the Commission wishes to provide flexibility in scheduling of races beyond the structure that would otherwise be required by rules addressed in this emergency rulemaking. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate an immediate threat to the general welfare.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days of their effect.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 11**, Medications, Prohibited Substances, and Testing

**Filing number:** **2020-185**

**Effective date:** 8/17/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To waive the requirement that a horse must remain in the paddock after furosemide administration.

**Basis statement:**

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 11 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to waive the requirement that horses remain in the paddock following administration of furosemide. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §279-A

**Chapter number/title:** **Ch. 19**, Protests, Appeals and Race Date Assignment Hearings

**Filing number:** **2020-150**

**Effective date:** 7/6/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Due to the uncertainty on the 2020 race season schedule, the Commission voted to temporarily waive the requirement that the licensees be given a Notice of Hearing 10 days prior to adjusting the racing schedule. The Commission also now allows the Executive Director to move for reopening of the Race Date Hearing.

**Basis statement:**

8 MRS section 263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the conducting of race date assignment hearings, a component of harness racing, that are contained in ch. 19 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending the 2020 race date awards as the result of the 2019 COVID19 pandemic. The Commission has subsequently awarded new race dates monthly as opposed to on an annual basis. The Commission will be required to conduct additional assignment of race dates that are dependent on events that are transpiring on an unpredictable basis.

The harness racing industry is particularly disrupted since the industries means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. Therefore, to maintain the health and welfare of the animals utilized in the industry, the Commission wishes to provide flexibility in scheduling of race dates beyond the structure that would otherwise be required by the procedural rules contained in Chapter 19. Therefore, the Commission has determined that the immediate adoption of the proposed changes to the procedural rules is necessary to mitigate an immediate threat to the general welfare of the animals.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days of their effect.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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**  
**Umbrella-Unit:** **01-670**  
**Statutory authority:** 12 MRS §1859 (PL 2017 ch. 289 §9)  
**Chapter number/title:** **Ch. 57**, Logging and Forestry Education Grant Program  
**Filing number:** **2020-209**  
**Effective date:** 9/27/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Required by 12 MRS §1859 (PL 2017 ch. 289 §9).

**Basis statement:**

The statutory authority for this rule is 12 MRS §1859, as enacted by Public Law 2017 ch. 289 §9. The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Parks and Lands (BPL), to establish standards for the BPL's administration of an educational grant program for public secondary or public postsecondary institutions or career and technical education centers that are related to logging or forestry. The Bureau found it necessary to amend these rules based on discussions with vocational schools which indicated the existing grant requirements did not offer enough flexibility for schools to maximize the intended benefit of the grants to purchase logging equipment for training programs.

**Process involved in developing this rule:** Following enactment of the law, and adoption of the rule, BPL consulted with the Attorney General's Office prior to undertaking rulemaking.

The BPL released the draft rule for public comment in March 2020. A public hearing was scheduled, and comment period extended to April 24, 2020 due to COVID-19. The BPL received 2 written comments on this proposal.

**Economic impact of the rule:** Multiple sections of the law governing state rulemaking (5 MRS ch. 375 sub-ch. 2) require agencies to conduct economic impact analyses of proposed rules, including, but not limited to, effects on small businesses, fiscal impact (on the state treasury), and any effects on municipalities and counties. Agencies may, within existing resources, also conduct a cost-benefit analysis of proposed rules.

The BPL has determined that the operation of this rule will not have a fiscal impact on the municipalities or counties. The Legislature appropriated \$300,000 for the BPL to administer this program.

Further, the BPL has determined that this rule will have no discernible impact on small businesses or the regulated community.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**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 777 (TA R2 WELS — Aroostook County) (petitioner  
William Robinson, LLC)  
**Filing number:** **2020-012**  
**Effective date:** 1/13/2020  
**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 in the *Kennebec Journal* newspaper. 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 777

**PETITIONER OR  
COPETITIONER**

William Robinson, LLC

**LOCATION**

Ta R2 WELS,  
Aroostook County

**Fiscal impact of rule:**

N/A

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**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 778 (Atkinson Twp. — Piscataquis County) (petitioner Maine Land Use Planning Commission, Staff Initiated)  
**Filing number:** **2020-031**  
**Effective date:** 2/21/2020  
**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 in the *Kennebec Journal* newspaper. 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 778

**PETITIONER OR  
COPETITIONER**

Maine Land Use Planning  
Commission, Staff Initiated

**LOCATION**

Atkinson Twp.,  
Piscataquis County

**Fiscal impact of rule:**

N/A

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**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 693B (Kingsbury Plt. — Piscataquis County) (petitioner Maine Land Use Planning Commission, Staff Initiated)  
**Filing number:** **2020-128**  
**Effective date:** 5/18/2020  
**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 in the *Kennebec Journal* newspaper. 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 693B

**PETITIONER OR  
COPETITIONER**

Maine Land Use Planning  
Commission, Staff Initiated

**LOCATION**

Kingsbury Plt.,  
Piscataquis County

**Fiscal impact of rule:**

N/A

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**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 707B (many locations) (petitioner Weyerhaeuser Company and Weyerhaeuser NR Company, c/o Luke Muzzy)  
**Filing number:** **2020-191**  
**Effective date:** 8/10/2020  
**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 in the *Kennebec Journal* newspaper. 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 707B

Weyerhaeuser Company and  
Weyerhaeuser NR Company,  
c/o Luke Muzzy)

(many locations)

**Fiscal impact of rule:**

N/A



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**Umbrella-Unit:** **01-672**  
**Statutory authority:** 12 MRS §§ 685-A(3), 685-A(7-A); 685-C(5); 28-B MRS §404  
**Chapter number/title:** **Ch. 10**, Land Use Districts and Standards  
**Filing number:** **2020-208**  
**Effective date:** 10/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This rulemaking by the Maine Land Use Planning Commission establishes new standards for marijuana standards and carries out routine maintenance of its ch. 10 rules, *Land Use Districts and Standards*.

Specifically, the revisions respond to Title 28-B §404 by establishing minimum requirements for marijuana businesses regarding odors produced by indoor and outdoor growing operations, to protect against light pollution from lighting within greenhouses; and address currently conflicting regulations for signs advertising activities that are illegal under state or federal laws or regulations.

Several other revisions act to clarify distinctions between constructed ponds, water impoundments, and water bodies. These revisions also confirm that constructed ponds are not a protected natural resource and therefore shoreline frontage, setback, vegetative clearing, and filling and grading requirements do not apply.

All remaining revisions represent routine maintenance of this rule, generally including housekeeping matters, unifying references, clarifying existing provisions, and updating a list of applicable FEMA maps.

**Fiscal impact of rule:**  
Not applicable.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 (LUPC)**  
**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 780 (Pleasant Ridge Plt. — Somerset County) (petitioner Robert F. Howe d/b/a/ Pine Grove Lodge & Cabins)  
**Filing number:** **2020-237**  
**Effective date:** 11/10/2020  
**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 in the *Kennebec Journal* newspaper. 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 780

**PETITIONER OR  
COPETITIONER**

Robert F. Howe  
d/b/a/ Pine Grove Lodge  
& Cabins

**LOCATION**

Pleasant Ridge Plt.,  
Somerset County

**Fiscal impact of rule:**

N/A



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 2927(1)(D) and (5)

**Chapter number/title:** **Ch. 175**, "Private Passenger Motor Vehicle" Definition for Rental Vehicle Coverage (*New*)

**Filing number:** **2020-232**

**Effective date:** 11/17/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule clarifies the types of vehicles that a personal motor vehicle policy must cover when the vehicle is rented by an authorized driver under the policy.

**Basis statement:**

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts ch. 175, "*Private Passenger Motor Vehicle*" Definition for Rental Vehicle Coverage. Pursuant to a July 1, 2020 Notice of Rulemaking, Superintendent Cioppa held a public hearing on July 21, 2020. The public comment period was open until August 3, 2020 at 4:30 p.m. The primary purpose of the proposed rule is to clarify the term "private passenger motor vehicle" as used in 24-A MRS §2927 to describe the types of vehicles that a personal automobile insurance policy must cover when the vehicle is rented by an authorized driver under the policy. Legislation enacted during the First Regular Session of the 129th Maine Legislature, Public Law 2019 ch. 376, "An Act To Update the Laws Governing Personal Vehicle Rental Coverage," specifically authorizes routine technical rules to achieve this purpose.

**Fiscal impact of rule:**

No fiscal impact on state government.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 4303-E  
**Chapter number/title:** **Ch. 365**, Standards for Independent Dispute Resolution of  
Emergency Medical Service Bills (*New*)  
**Filing number:** **2020-220**  
**Effective date:** 10/24/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of the rule is to implement the Independent Dispute Resolution (IDR) process established by PL 2019 ch. 668, *An Act to Protect Consumers from Surprise Emergency Medical Bills*.

**Basis statement:**

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts 02-031 CMR ch. 365, “Standards for Independent Dispute Resolution of Emergency Medical Service Bills.” Pursuant to an August 4, 2020 Notice of Rulemaking, Superintendent Cioppa held a public hearing on August 26, 2020, and the public comment period was open until September 8, 2020 at 4:30 p.m. The rule implements the Independent Dispute Resolution (IDR) process established by PL 2019 ch. 668, *An Act To Protect Consumers from Surprise Emergency Medical Bills*.

The Superintendent adopts the rule with miscellaneous, non-substantive editorial corrections, such as conforming capitalization, misspellings, and mis-numbered subsections or paragraphs. The Superintendent also adopts changes specifically in response to comments made during the public comment period. These changes are technical in nature and do not materially change the substance of the rule.

**Fiscal impact of rule:**

No fiscal impact on state government.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 2772, 2774, 4218, 4218-A, 4222-A, 4303, 4309,  
4309-A

**Chapter number/title:** **Ch. 850**, Health Plan Accountability

**Filing number:** **2020-120**

**Effective date:** 5/24/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of the amendments is to conform the rule to changes made to the *Health Plan Improvement Act* by legislation enacted during the First Regular Session of the 129th Maine Legislature. The legislation specifically authorizes routine technical amendments to achieve this purpose. PL 2019 ch. 171, amended the clinical peer requirements for carriers' medical reviews. PL 2019 ch. 238, amended the requirements for coverage of emergency services and defined "emergency service" and "emergency medical condition." PL 2019 ch. 273, amended the requirements for prior authorization of nonemergency services.

**Basis statement:**

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts amendments to ch. 850, *Health Plan Accountability*. Pursuant to a November 27, 2019 Notice of Rulemaking, Superintendent Cioppa held a public hearing on December 17, 2019, and the public comment period was open until December 30, 2019 at 4:30 p.m. The primary purpose of the amendments is to conform the rule to changes made to the *Health Plan Improvement Act* by legislation enacted during the First Regular Session of the 129th Maine Legislature. The legislation specifically authorizes routine technical amendments to achieve this purpose. The legislation is as follows:

- PL 2019, ch. 171, "An Act To Ensure Protection of Patients in Medical Reviews by Health Insurance Carriers," which amended the clinical peer requirements for carriers' medical reviews;
- PL 2019, ch. 238, "An Act To Protect Patients and the Prudent Layperson Standard," which amended the requirements for coverage of emergency services and defined "emergency service" and "emergency medical condition"; and
- PL 2019, ch. 273, "An Act Regarding the Process for Obtaining Prior Authorization for Health Insurance Purposes," which amended the requirements for prior authorization of nonemergency services. In addition, an unallocated provision of Chapter 273 directed the Superintendent to amend Chapter 850 to replace the term "urgent care" with the term "exigent circumstances" and to require review within 24 hours in exigent circumstances.

**Fiscal impact of rule:**

No fiscal impact on state government.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 2188  
**Chapter number/title:** **Ch. 950**, Navigator Certification and Training for Health Benefit  
Marketplaces  
**Filing number:** **2020-207**  
**Effective date:** 9/22/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of the rule is to establish standards and procedures for the certification of navigators to perform the activities and duties identified in 24-A MRS §2188 and subsection 1311(i) of the federal *Affordable Care Act*.

**Basis statement:**

The Superintendent of Insurance hereby adopts as proposed 02-031 CMR ch. 950, *Navigator Certification and Training for Health Benefit Marketplaces*. The primary purpose of the rule is to establish standards and procedures for the certification of navigators to perform the activities and duties of identified in 24-A MRS §2188 and subsection 1311(i) of the *Affordable Care Act*. Ch. 950 is authorized by 24-A MRS §§ 212 and 2188.

Pursuant to an August 4, 2020 Notice of Rulemaking, published in the Secretary of State's August 5, 2020 Weekly Notices of State Rulemaking, on August 5, 2020, the Superintendent held a public hearing on August 27, 2020. The public comment period was open until September 8, 2020 at 4:30 p.m. No member of the public offered comments at the public hearing, and the Bureau of Insurance did not receive any written comments from the public before the comment period ended.

**Fiscal impact of rule:**

No fiscal impact on state government.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Professional and Financial Regulation,  
**Real Estate Commission**  
**Umbrella-Unit:** **02-039**  
**Statutory authority:** 12 MRS §13065  
**Chapter number/title:** **Ch. 360**, Prerequisites to Licensure by Individuals  
**Filing number:** **2020-100**  
**Effective date:** 4/22/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Under current REC rules at ch. 360 section 4(3), REC requires that as a prerequisite to examination, an applicant for a sales agent license must, within one year of completion of the course, submit a course transcript confirming that the applicant has successfully completed a qualifying education program which covers the minimum competencies defined in the REC-approved model entitled "The Sales Agent Course." REC examinations are administered by Pearson Vue. Due to the COVID-19 emergency, Pearson Vue testing sites were closed on March 16, 2020. Sales agent license candidates whose one-year window to qualify for examination expires on or after March 16, 2020 will not be able to qualify for examination when testing sites reopen. Therefore, an extension of the time period during which completion certificates will be valid is necessary. It promotes the public health and the Governor's Executive Orders to provide an emergency accommodation to those prospective sales agents. Once testing sites are fully reopened there will be a backlog in various examinations administered by Pearson Vue. It promotes public health to extend the time to qualify for the sales agent examination until 180 days after the testing sites fully reopen in order that test takers can be spread out over more test sessions.

**Basis statement:**

The Maine Real Estate Commission (REC) adopts this emergency rule change in 02-039 C.M.R. ch. 360, *Prerequisites to Licensure by Individuals*, pursuant to 32 MRS §13065 and the REC's emergency rulemaking authority under 5 MRS §8054 and in response to the Governor's Proclamation of State of Civil Emergency to Further Protect Public Health (dated March 15, 2020) and the Governor's Executive Order 19 FY 19/20, *An Order Regarding Essential Business and Operations* ( effective March 24, 2020).

**Purpose of Emergency Change**

Under current REC rules at ch. 360 section 4(3), REC requires that as a prerequisite to examination, an applicant for a sales agent license must, within one year of completion of the course, submit a course transcript confirming that the applicant has successfully completed a qualifying education program which covers the minimum competencies defined in the REC-approved model entitled "The Sales Agent Course." REC examinations are administered by Pearson Vue. Due to the COVID-19 emergency, Pearson Vue testing sites were closed on March 16, 2020. Sales agent license candidates whose one-year window to qualify for examination expires on or after March 16, 2020 will not be able to qualify for examination when testing sites reopen. Therefore, an extension of the time period during which completion certificates will be valid is necessary. It promotes the public health and the Governor's Executive Orders to provide an emergency accommodation to those prospective sales agents. Once testing sites are fully reopened there will be a backlog in various examinations administered by Pearson Vue. It promotes public health to extend the time to qualify for the sales agent examination until 180 days after the testing sites fully reopen in order that test takers can be spread out over more test sessions.



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**Specific Change to ch. 360**

The proposed change will amend Section 4(3) to extend the period of time during which applicants for a sales agent licenses have to pass the sales agent examination after they have successfully completed the sales agent course. The time will be extended from one year to 180 days after testing sites fully reopen.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Professional and Financial Regulation,  
**Real Estate Commission**  
**Umbrella-Unit:** **02-039**  
**Statutory authority:** 12 MRS §13065  
**Chapter number/title:** **Ch. 360**, Prerequisites to Licensure by Individuals  
**Filing number:** **2020-186**  
**Effective date:** 8/13/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

Under REC rules at ch. 360 §4(3), REC requires that as a prerequisite to examination, an applicant for a sales agent license must, within one year of completion of the course, submit a course transcript confirming that the applicant has successfully completed a qualifying education program which covers the minimum competencies defined in the REC-approved model entitled "The Sales Agent Course." REC examinations are administered by Pearson Vue. Due to the COVID-19 emergency, Pearson Vue testing sites were closed on March 16, 2020. An emergency rule became effective on April 20, 2020 amending §4(3) which allows a sales agent candidate to qualify for examination for up to 180 days after Pearson Vue testing sites are fully operational, regardless of whether the candidate's course completion certificate expired after March 16, 2020. The emergency rule is in place for 90 days. This rule amendment will ensure that sales agent candidates can continue to qualify for examination up to 180 days after the testing sites reopen, regardless of the expiration date of the course completion certificate, and after the emergency rule expires.

**Fiscal impact of rule:**  
None.



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**Agency name:** Department of Professional and Financial Regulation,  
**Board of Chiropractic Licensure**

**Umbrella-Unit:** **02-297**

**Statutory authority:** 32 MRS §§ 502, 551, 552, 564

**Chapter number/title:** **Ch. 3**, Licensure Requirements for Chiropractic Doctors (*Repeal*)

**Filing number:** **2020-002**

**Chapter number/title:** **Ch. 3-A**, Licensure Requirements for Chiropractic Doctors and  
Temporary Chiropractic Interns (*New*)

**Filing number:** **2020-003**

**Chapter number/title:** **Ch. 9**, Fees (*Repeal*)

**Filing number:** **2020-004**

**Effective date:** 1/7/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

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

**Basis statement:**

The Board of Chiropractic Licensure repeals ch. 3 and adopts a new ch. 3-A for licensing chiropractic doctors and chiropractic interns. The sections 1 and 2 adopts a new streamlined method for licensing chiropractic doctors and accepts fully the NBCE examination that an applicant by endorsement took at time of original licensure in the State of jurisdiction. Section 3 adopts requirements to implement the licensing of chiropractic interns pursuant to 2019 Public Law ch. 37 that took effect on September 19, 2019. Ch. 9, *Fees*, is an obsolete rule and is repealed as fees are set by the Director of the Office of Professional and Occupational Regulation.

**Fiscal impact of rule:**  
None.



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**Agency name:** Department of Professional and Financial Regulation,  
**Bureau of Real Estate Appraisers**  
**Umbrella-Unit:** **02-298**  
**Statutory authority:** 32 MRS §14012  
**Chapter number/title:** **Ch. 240**, Standards of Professional Practice  
**Filing number:** **2020-010**  
**Effective date:** 1/20/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments to Chapter 240 are proposed to update the Standards with which licensees must comply. Effective January 1, 2020 licensees will be expected to comply with the 2020-21 edition of the Uniform Standards of Professional Appraisal Practice ("USP AP").

**Basis statement:**

The amendments to ch. 240 update the Standards with which licensees must comply. Effective January 1, 2020 licensees will be expected to comply with the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice ("USPAP"). 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 ("USPAP), as promulgated by the Appraisal Standards Board of the Appraisal Foundation. This amendment designates the 2020-21 edition of USP AP as the standards of practice in effect beginning January 1, 2020. Changes from the 2019-2020 edition are discussed in detail in the Appraisal Standards Board's "2020 Summary of Actions Related to USPAP Changes" (June 25, 2019). This document may be downloaded from the Appraisal Foundation website: [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

These are routine technical rules as defined in the *Maine Revised Statutes*, Title 5 ch. 375, sub-ch. 2-A.

**Fiscal impact of rule:**

None.



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**Agency name:** Department of Professional and Financial Regulation,  
**Maine Board of Dental Practice**

**Umbrella-Unit:** **02-313**

**Statutory authority:** 32 MRS §§ 18324, 18325(1), 18341, 18342, 18343, 18344, 18345, 18346, 18347, 18348, 18349, 18350, 18371, 18372, 18373, 18374, 18375, 18376, 18377, 18378, 18379, 18393, 10 MRS §8003(5)(G)

**Chapter numbers/titles:** **Ch. 1**, Definitions (*Repeal and replace*)  
**Ch. 2**, Rules Relating to Dental Hygienists (*Repeal*)  
**Ch. 2**, Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities (*New*)  
**Ch. 3**, Rules Relating to Dental Assistants (*Repeal*)  
**Ch. 3**, Qualifications for Expanded Function Dental Assistant Licensure (*New*)  
**Ch. 4**, Rules Relating to the Practice of Denturism (*Repeal*)  
**Ch. 4**, Qualifications for Dental Radiography Licensure (*New*)  
**Ch. 5**, Requirements for Licensure as a Denturist (*Repeal*)  
**Ch. 5**, Qualifications for Denturist Licensure (*New*)  
**Ch. 6**, Rules for Radiation Barriers (*Repeal*)  
**Ch. 6**, Qualifications for Dentist Licensure (*New*)  
**Ch. 8**, Advertising (*Repeal*)  
**Ch. 8**, Qualifications for Initial and Renewal Registrations (*New*)  
**Ch. 9**, Complaints / Investigations / Unprofessional Conduct (*Repeal*)  
**Ch. 9**, Unprofessional Conduct (*New*)  
**Ch. 10**, Licensure Requirements for Dental Radiographers (*Repeal*)  
**Ch. 10**, Sexual Misconduct (*New*)  
**Ch. 11**, Requirements for Licensure as Dental Hygienists (*Repeal*)  
**Ch. 11**, Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities (*New*)  
**Ch. 12**, Requirements for Dental Licensure (*Repeal*)  
**Ch. 12**, Practice Requirements (*New*)  
**Ch. 15**, Mortality or Significant Health Incidents in a Dental Office (*Repeal*)  
**Ch. 16**, Rules for Independent Practice Dental Hygienists to Process Dental Radiographers (*Repeal*)

**Filing numbers:** **2020-065 thru 087**

**Effective date:** 4/5/2020

**Type of rules:** Routine Technical

**Emergency rules:** No



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**Principal reason or purpose for rules:**

This is a complete repeal and replace of several existing rules governing the practice of dental professionals regulated under the *Maine Dental Practice Act*. The purpose of this rulemaking is as follows:

- Fully implements the provisions of the Maine Dental Practice Act which was repealed and replaced in 2016, and further amended in 2018 and 2019, in the following ways:
  - o Removes scope of practice provisions from rules
  - o Eliminates definitions identified in statute
  - o Repeals provisions were repealed in statute
  - o Clarifies the requirements for licensure, practice authorities, registrations, renewal and reinstatement requirements
  - o Identifies pathways for licensure by endorsement
  - o Identifies the process for dental hygienist to qualify, apply and obtain practice authorities in the following practice areas: administration of nitrous oxide analgesia, administration of local anesthesia, independent practice dental hygiene, public health hygiene and dental therapy.
- Revises existing rules to reflect practice standards applicable to all licensees such as infection control, radiation protection, safety and sanitary requirements, emergency protocols, dental adverse occurrence reporting, inventory control for controlled substances, patient records and recordkeeping requirements, informed consent provisions, practice and sale notification requirements, use of certain materials, lasers and digital equipment, after hours patient care and placement of temporary restorations without and without the use of dental radio graphs.
- Adopts national principles of ethics and codes of professional conduct specific to the dentists, dental hygienists and denturists.
- Eliminates regulations such as the advertising of personnel, limiting services of public health dental hygiene and prohibiting a denturist from inserting an immediate denture within 48 hours of extraction.

**Basis statement:**

The Maine Board of Dental Practice ("the Board") is charged by the Legislature with the regulation of dentists, dental hygienists, denturists, dental radiographers, and expanded function dental assistants in the State of Maine for the sole purpose to protect the public health and welfare. The Legislature granted the Board rulemaking authority pursuant to 32 MRS §18324 to fully implement its statutory mandates.

This rulemaking effort is a repeal and replace of several, existing rules governing the practice of dental professionals regulated under the *Maine Dental Practice Act*. In 2016, the *Maine Dental Practice Act* was repealed and replaced, resulting in the streamlining of licensure categories, licensure qualifications, dental hygiene practice authorities, as well as the identification of scopes of practice for each regulated dental professional. In 2018 and 2019, the *Maine Dental Practice Act* was further amended to clarify licensure categories, scopes of practice, and the qualifications to practice dental therapy.

This rulemaking effort repeals outdated rules and replaces the rules to align with the new statutory provisions in order to clarify the qualifications for licensure and registration, identify the requirements to renew and reinstate a license and practice authority, and delineate practice requirements of dental professionals to ensure public protection in areas such as infection control, radiation protection, safety and sanitary requirements, emergency protocols, dental adverse occurrence reporting, inventory control for controlled substances, patient records and recordkeeping requirements, informed consent provisions, practice and sale notification requirements, use of certain materials, lasers and digital equipment, after

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hours patient care, and placement of temporary restorations with and without the use of dental radiographs.

The Board held a public hearing on November 8, 2019, for the purpose of taking oral comments and accepted written comments through November 22, 2019. The public comments received were considered by the Board on December 6, 2019. At that meeting, the Board reviewed the public comments and voted to accept four comments specific to Board Rules, Ch. 2 and Board Rules, Ch. 11 requiring an additional 30-day public comment period.

The Board published the proposed, accepted changes to Board Rules, Ch. 2 and 11 on December 25, 2019, with a public comment deadline of January 25, 2020. The Board did not receive any additional public comments on the changes.

**Fiscal impact of rules:**

Not applicable.

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**Agency name:** Department of Professional and Financial Regulation,  
**Maine Board of Dental Practice**

**Umbrella-Unit:** **02-313**

**Statutory authority:** 32 MRS §§ 18323(3),18324

**Chapter numbers/titles:** **Ch. 7**, Establishment of Fees

**Filing numbers:** **2020-252**

**Effective date:** 12/26/2020

**Type of rules:** Routine Technical

**Emergency rules:** No

**Principal reason or purpose for rules:**

*(See Basis Statement)*

**Basis statement:**

The Maine Board of Dental Practice (“the Board” is charged by the Legislature with the regulation of dentists, dental hygienists, denturists, dental radiographers, and expanded function dental assistants in the State of Maine for the sole purpose to protect the public health and welfare. The Legislature granted the Board rulemaking authority pursuant to 32 MRS §18324 to fully implement its statutory mandates.

Additionally, 32 MRS §18323(3) authorizes the Board to establish by rule fees in amounts that are reasonable and necessary to sustain the operations of the Board on an ongoing basis. The amendment to Board rule ch. 7, “Establishment of Fees” continues the Board’s effort to stabilize its collection of fees. Based on financial projections, the fees adopted by this amended rule will generate additional revenue necessary to maintain the current level of services necessary for the Board to meet its statutory mandate.

Below is a summary of the various fee structure changes identified in the adopted rule:

- 1) Increases initial licensure and renewal of licensure fees in the following categories:
  - a) Dentist, faculty dentist, and limited dentist; and
  - b) Moderate sedation permits, deep sedation/general anesthesia permit, and itinerant dentist permit.

**Fiscal impact of rules:**

The fees established in this rule will generate additional revenue necessary to maintain the current level of services necessary to meet the Board’s statutory mandate. It is projected that an additional \$300,000 in revenue will be collected biennially.

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**Agency name:** Department of Professional and Financial Regulation,  
**Board of Licensure in Medicine**

**Umbrella-Unit:** **02-373**

**Statutory authority:** 10 MRS §8003(5)(C)(4); 32 MRS §§ 2562, 2594-E(5), 3269(7),  
3270-E(5)

**Chapter number/title:** **Ch. 2**, Joint Rule Regarding Physician Assistants (*jointly with*  
*02-383, Board of Osteopathic Licensure*)

**Filing number:** **2020-246**

**Effective date:** 12/16/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

To amend an existing joint rule to implement PL 2020 ch. 627, “An Act to Improve Access to Physician Assistant Care”

**Basis statement:**

The Board of Licensure in Medicine and the Board of Osteopathic Licensure (boards) were created by the Legislature with the sole purpose of protecting the public. 10 MRS §8008 provides:

**§8008. Purpose of occupational and professional regulatory boards**

**The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare.** A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. **Other goals or objectives may not supersede this purpose.**

It is with this purpose in mind that the boards approach the current rule making regarding ch. 2.

On March 18, 2020 L.D. 1660, a bill entitled "An Act to Improve Access to Physician Assistant Care" was emergently enacted into law in the State of Maine. Prior to its enactment by the full Legislature, L.D. 1660 was reviewed by the Joint Standing Committee on Health Coverage, Insurance and Financial Services (HCIFS), including oral and written testimony in support of and in opposition to the bill. Several individuals and organizations opposed the bill arguing that removing physician delegation and supervision over physician assistants would result in less oversight of physician assistant practice, unnecessary risk to the public, and independent practice by physician assistants who lack post-graduate residency training in a given medical specialty. Individual physician assistants and the Maine Association of Physician Assistants supported the bill arguing that physician assistants are trained medical professionals who should be treated as colleagues and work "in collaboration" with physicians - not under their supervision. In addition, the HCIFS Committee was presented with testimony regarding the differences between the education and training of physicians (4 years of medical school followed by at least 3 years of residency training in a medical specialty) and physician assistants (2 years of school and no residency training) as well as the administrative paperwork burden placed on physician assistants, physicians, and health care systems regarding physician supervision requirements and written plans of supervision.

The Board of Licensure in Medicine and Board of Osteopathic Licensure (boards) submitted joint written testimony informing the HCIFS Committee that the bill would "represent a significant paradigm shift for the regulation and oversight of physician assistants in Maine," convert physician assistants from "dependent" practitioners to "independent"

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practitioners, and remove significant physician oversight and accountability. In addition, the boards pointed out to the HCIFS Committee that physician assistants working outside of health care facilities and physician group practices represented the most significant risk to the public as without physician oversight, supervision, and delegation the bill allowed physician assistants to define their own "scope of practice" with the risk that they could choose to perform services that are beyond their education and training. The HCIFS Committee amended the bill to require that certain physician assistants working outside of health care systems or physician group practices have collaborative agreements or practice agreements with scopes of practice approved by the boards. The significant changes of the new law include:

- Elimination of physician supervision and oversight of physician assistants;
- Elimination of the delegation of medical acts by physicians to physician assistants;
- Elimination of the requirement of plans of supervision and replaced them with collaborative agreements and practice agreements;
- Creation of an exception to the need for either a collaborative agreement or practice agreement for physician assistants with 4,000 hours or more of clinical experience who are working within a health care facility or physician group practice;
- Authorizing physician assistants with less than 4,000 hours of clinical experience to work within health care facilities or physician group practices pursuant to a privileging and credentialing document that delineates the scope of practice (in lieu of a collaborative agreement); and
- Authorizing the Boards to approve or deny the scope of practice delineated in a collaborative agreement or practice agreement.

In sum, the new law created the following four categories of physician assistant practice models in Maine:

1. Physician assistants with **less than 4,000 hours** (post-graduate) of documented clinical experience **working in a health care facility or physician group practice** under a system of credentialing and granting of privileges and pursuant to a written scope of practice agreement.
2. Physician assistants with **less than 4,000 hours** (post-graduate) of documented clinical experience working in a private practice setting **other than** a health care facility or physician group practice under a system of credentialing and granting of privileges pursuant to a written collaborative agreement with a Maine licensed physician.
3. Physician assistants with **more than 4,000 hours** (post-graduate) of documented clinical experience and the principal clinical provider in a practice that does not include a physician partner ( own or operate an independent practice) pursuant to a practice agreement with a Maine licensed physician.
4. Physician assistants with **more than 4,000 hours** (post-graduate) of documented clinical experience and practicing in a setting **other than** as the principal clinical provider in a practice that does not include a physician partner (do not own or operate an independent practice) such as a health care facility or physician group practice. **No credentialing and privileging document, no collaborative agreement, and no practice agreement is required** to be maintained or produced to the boards.

Nearly all stakeholders concurred that the vast majority of physician assistants in Maine worked within health care facilities, which operate pursuant to protocols for educating and training them as well as for evaluating and monitoring the quality of medical services rendered by physician assistants. Therefore, decreasing the administrative burdens in these settings, which provide both oversight and a safety net for physician assistants, arguably did not pose a significant risk to the public. In addition, health care facilities are ultimately legally liable and responsible for any medical services rendered by physician assistants employed by

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them, which should lead to appropriate education, training, and oversight. Finally, health care facilities are mandated by law to report to the boards any adverse employment or privileging decisions regarding physician assistants that are based upon unprofessional conduct or competency issues.

Similarly, nearly all stakeholders agreed that physician assistants who worked alone outside of health care facilities or physician group practices represent the greatest risk to the public due to the lack of oversight and evaluation. Therefore, the Legislature gave the boards the responsibility of reviewing and approving the scopes of practice for these physician assistants who may perform medical services pursuant to a collaborative agreement or practice agreement. As indicated earlier, prior to the enactment of this law that responsibility fell to the physician(s) supervising the physician assistant(s). **As evidence of this intent, the new law specifically provided that both collaborative agreements and practice agreements must include the scope of practice for the physician assistant and specifically provided that both collaborative agreements and practice agreements "shall be submitted to the board for approval by the physician assistant.**

The new law specifically provides that "scope of practice" for physician assistants "is determined by the practice setting" and that a physician assistant "**may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform.**" Thus, in evaluating any proposed scope of practice, the legislation requires the boards to consider the physician assistant's education, training and experience, and competency as well as the practice setting. This is to ensure that the public is competently and safely served. For example, the public would not be safely or competently served by a physician assistant with more than 4,000 hours of clinical experience and who has been practicing for ten (10) years in orthopedics, and who decides to open a private practice in which she is the principal clinical provider without a physician partner providing general family practice services. Because orthopedics is a medical specialty that is significantly different from family practice, allowing a physician assistant to make such a change -- without oversight, additional training and/or re-education -- may endanger the public.

In addition, to emphasize the HCIFS Committee's (and hence the Legislature's) intent to implement this new model of physician assistant oversight in Maine, the new law included the following language:

**Construction.** To address the need for affordable, high-quality health care services throughout the State and to expand, in a safe and responsible manner, access to health care providers such as physician assistants, **this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.**

**Fiscal impact of rule:**

Minimal.

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**Agency name:** Department of Professional and Financial Regulation,  
**Board of Licensure in Medicine**  
**Umbrella-Unit:** **02-373**  
**Statutory authority:** 32 MRS §§ 3269(3),(7), 3300-F  
**Chapter number/title:** **Ch. 12** (*New*), Joint Rule Regarding Office Based Treatment of Opioid Use Disorder (*a joint rule with 02-380 and 02-383*)  
**Filing number:** **2020-107**  
**Effective date:** 4/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To ensure safe and adequate treatment of opioid use disorder with approved medications in an outpatient medical setting (office-based opioid treatment).

**Basis statement:**

The Board of Licensure in Medicine (BOLIM) has reviewed multiple complaints and investigations regarding Maine licensed physicians providing office based opioid treatment (OBOT) raising concern surrounding knowledge of and compliance with prevailing standards of care. Due to the need for increased treatment in this State, many physicians providing OBOT in Maine have transitioned in their practice from other treatment specialties and are not experts in addiction medicine, mental health, or prescribing of buprenorphine. Deficiencies regarding OBOT noted by the BOLIM during its investigations have included:

- Inadequate facilities: lack of patient privacy; lack of appropriate facilities for urine collection.
- Inadequate medical record keeping: failure to query the prescription monitoring program (PMP); failure to document PMP checks; failure to attempt to obtain the patient's prior medical records; failure to document medical decision making.
- Inadequate or no referral to counseling and other services.
- Inadequate or no toxicological testing to confirm use of buprenorphine and exclude other non-prescribed legal and illegal substances.
- Co-prescribing buprenorphine, amphetamines, hypnotics, and benzodiazepines.
- Inadequate patient assessment for treatment needs.

**Fiscal impact of rule:**

*(no response)*

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**Agency name:** Department of Professional and Financial Regulation,  
**Board of Licensure in Medicine**

**Umbrella-Unit:** **02-373**

**Statutory authority:** 32 MRS §§ 3269(3),(7), 3300-F

**Chapter number/title:** **Ch. 21**, Use of Controlled Substances for Treatment of Pain (*a joint rule with 02-380, 02-383, and 02-396*)

**Filing number:** **2020-123**

**Effective date:** 5/27/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments: add a table of contents to make the rule easier to use; add new definitions for "hospice services" and "terminally ill"; add section three, applicability of rule, to clarify that the rule does not apply to treatment of inpatients at medical facilities or any custodial care facility where patients do not have possession or control over their medications and medications are dispensed or administered by a licensed, certified, or registered health care provider, or to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule; provide clarification by merging the sections for exemptions to dosage limits with exemptions to days' supply; provide clarification regarding the use of the CDC Guidelines for prescribing opioids for chronic pain; and incorporate existing continuing medical education requirements for podiatrists.

**Basis statement:**

This is an update to an existing joint rule (ch. 21) regarding the use of controlled substances for the treatment of pain in Maine, which consists of four sections:

**Section 1** sets out the purpose of the joint rule.

**Section 2** defines terms used throughout the rule.

**Section 3** establishes exemptions from the rule.

**Section 4** establishes principles of proper pain management, including:

- Developing and maintaining competence
- Universal precautions
- Reportable acts
- Compliance with controlled substance laws and regulations
- Compliance with CDC guideline for prescribing opioids for chronic pain

**Section 5** requires continuing education regarding opioid prescribing.

The boards initiated the current rule making process following receipt of concerns from the public regarding the potentially adverse impact of the rule upon the treatment of certain patient populations. More specifically, the boards received information from the Maine Medical Association, the American Cancer Society, Home Care & Hospice Alliance of Maine, and a physician who provides hospice care expressing concerns regarding the relevance and applicability of the rule to hospice patients. In addition, the boards received information from the Maine Medical Association questioning the relevance and applicability of the rule to patients in long-term residential living facilities, and concerns regarding the existing language of the rule regarding exemptions to dosage and day limits and an apparent mandate that clinicians follow the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016." The boards agreed with the concerns expressed regarding the existing joint rule, and thus proposed the current amendments. Copies of the correspondence from the various entities and persons described above are attached to this basis statement and response to comments.

The current amendments to the joint rule would:



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1. Add a table of contents for better ease of use.
2. Add a definition of "Hospice Services" as defined in Title 22 MRS §8621, subsection 11 ("a range of interdisciplinary services provided on a 24-hours-a-day, 7-days-a-week basis to a person who is terminally ill and that person's family. Hospice services must be delivered in accordance with hospice philosophy.")
3. Add a definition of "Terminally Ill" as defined in Title 22 MRS §8621, subsection 17 ("a person has a limited life expectancy in the opinion of the person's primary physician or medical director.")
4. Create a new Section 3, entitled "Applicability of Rule" that would exempt patients in certain custodial care facilities and hospice care patients from the applicability of the rule as follows:

**SECTION 3. APPLICABILITY OF RULE**

**1. Custodial Care Facilities**

This rule does not apply to the treatment of patients who are in-patients of any medical facility or to the treatment of patients in any custodial care facilities (including nursing homes, rehabilitation facilities, and assisted living facilities) where the patients do not have possession or control of their medications and where the medications are dispensed or administered by a licensed, certified or registered health care provider.

**2. Hospice Care**

This rule does not apply to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule.

5. Make a minor organizational change to previous Section 3(2)(e) and (f) (now Section 4(2)(e) and (±)) to clarify that the limits and the exemptions for apply to both "Dosage and Days' Supply."
6. Modify the language of previous Section 3(5) (now Section 4(5)) as follows to clarify that the clinicians should be aware of the CDC Guidelines - rather than following them verbatim - when prescribing controlled substances while treating chronic pain:

**Use of the CDC Guideline for Prescribing Opioids for Chronic Pain**

Clinicians are responsible for being familiar with the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016" (as published in the U.S. Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Early Release/Vol. 65, March 15, 2016.) when prescribing controlled substances for the treatment of chronic pain. Copies of the CDC guideline may be obtained at: <http://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm> .

**Fiscal impact of rule:**  
Minimal.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Professional and Financial Regulation,  
**State Board of Nursing**

**Umbrella-Unit:** **02-380**

**Statutory authority:** 32 MRS §§ 2102(D), 2104, 2153-A; 22 MRS §1812-G; and the Board's emergency rulemaking authority under 5 MRS §8054 and in response to the Governor's *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor's Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

**Chapter number/title:** **Ch. 5**, Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants

**Filing number:** **2020-105**

**Effective date:** 4/24/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

State of emergency.

**Basis statement:**

The Maine State Board of Nursing ("Board") adopts these emergency rule changes in 02-380 CMR ch. 5, *Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants* pursuant to 32 MRS §§ 2102(D), 2104 and 2153-A, 22 MRS §1812-G, and the Board's emergency rulemaking authority under 5 MRS §8054 and in response to the Governor's *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor's Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

**Purpose of Emergency Changes**

As a result of the on-going COVID-19 public health emergency, nursing assistant students have been unable to complete the supervised clinical hours required to complete their programs and qualify for certification and listing on the Maine Registry of Certified Nursing Assistants.

Certified Nursing Assistants work in a variety of medical and long-term care facilities deemed essential under the Governor's Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

32 MRS §2102(2)(D) allows registered professional nurses to delegate selected nursing services to assistants to nurses who have completed or are currently enrolled in a course sponsored by a state-approved facility or a facility licensed by the Department of Health and Human Services but requires the Board to issue rules concerning delegation that it considers necessary to ensure quality of health care to the patient. Board rules do not currently allow registered professional nurses to delegate nursing tasks to nursing assistants who are currently enrolled in training programs.

Ch. 5 §2 of the Board's rules require nursing assistant training programs to provide 90 hours of classroom instruction, 20 hours of skills laboratory, and 70 hours of correlated, supervised clinical practice.

The emergency changes will allow nursing assistant students to obtain up to 25 hours of the necessary supervised clinical experience as paid employees of medical facilities.

**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,  
**State Board of Nursing**

**Umbrella-Unit:** **02-380**

**Statutory authority:** 32 MRS §§ 2153-A(1), 2102(2-A); 32 MRS §2211(4)

**Chapter number/title:** **Ch. 8**, Regulations Relating to Advanced Practice  
Registered Nursing

**Filing number:** **2020-029**

**Effective date:** 3/1/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

(LD 116, SP387) *An Act Regarding Anesthesia Care in Rural Maine* (Law enacted and effective on September 12, 2017)

**Basis Statement:**

The amendment to ch. 8, *Regulations Relating to Advanced Practice Registered Professional Nurses*, is to address LD116, SP187, *An Act Regarding Anesthesia Care in Maine*, effective September 12, 2017. The law addresses the elimination of the certified registered nurse anesthetist's requirement to be accountable to a licensed physician or dentist in rural and critical access hospitals. The rule adds prescriptive authority to the certified registered nurse anesthetist's scope of practice in the preoperative and immediate postoperative periods. The rule clarifies the treatment and prescribing to family and friends, allows for the initial licensure of the advanced practice registered nurse that may have a degree that is more than a master's degree, reduces the continuing education requirement, and clarifies the twenty-four-month supervisory requirement.

**Fiscal impact of rule:**

None.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Professional and Financial Regulation, **State Board of Nursing**  
**Umbrella-Unit:** **02-380**  
**Statutory authority:** 32 MRS §§ 2153-A(1), 2102(2-C)  
**Chapter number/title:** **Ch. 10**, Regulations Relating to Administration of Intravenous Therapy by Licensed Nurses  
**Filing number:** **2020-030**  
**Effective date:** 3/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Reduce the barriers for facilities to utilize licensed practical nurses to provide intravenous therapy.

**Basis Statement:**

The adopted language will remove the requirement of a licensed practical nurse intravenous therapy certification course approved by the Board and to allow the facilities to provide the intravenous therapy training specific to the needs of that facility.

**Fiscal impact of rule:**

Reduction in costs to the facility and/or licensed practical nurses to pay for a certification course.

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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, **State Board of Nursing**  
**Umbrella-Unit:** **02-380**  
**Statutory authority:** 32 MRS §§ 2153-A, 2102(2)(C); 5 MRS §8054; Proclamation, Executive Order  
**Chapter number/title:** **Ch. 10**, Regulations Relating to Administration of Intravenous Therapy by Licensed Practical Nurses and Registered Professional Nurses  
**Filing number:** **2020-106**  
**Effective date:** 4/24/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

State of Emergency.

**Basis Statement:**

The Maine State Board of Nursing (“Board”) adopts these emergency rule changes in 02-380 CMR ch. 10, *Regulations Relating to Administration of Intravenous Therapy by Licensed Practical Nurses and Registered Professional Nurses* pursuant to 32 MRS §§ 2102(2)(C), 2153-A, and the Board’s emergency rulemaking authority under 5 MRS. §8054 and in response to the Governor’s *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor’s Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

**Purpose of Emergency Changes**

As a result of the on-going COVID-19 public health emergency, medical and long-term care facilities are facing nurse staffing shortages. Medical and long-term care facilities continue to operate during the public health emergency and are deemed essential under the Governor’s Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

32 MRS §2102(2)(C) allows registered professional nurses to delegate selected nursing services to licensed practical nurses when the services use standardized protocols and procedures leading to predictable outcomes in the observation and care of the ill, injured and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by an individual authorized by state law to prescribe but requires the Board to issue rules concerning delegation as it considers necessary to ensure quality health care to the patient.

Ch. 10 §2(A)(1) of the Board’s rules limits a licensed practical nurse’s authorization to practice intravenous therapy administration for both Adults and Pediatrics to locations where there is on-site supervision by a registered nurse. Section 1(A)(1) of ch. 10 defines supervision to mean “that the registered nurse is on-site and immediately available to assess and evaluate nurse performance.

The emergency changes will allow licensed practical nurses to practice intravenous therapy administration in locations where a registered nurse is not on-site but is immediately available via telephone or videoconferencing technology to assess and evaluate nurse performance.

**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,  
**State Board of Nursing**

**Umbrella-Unit:** **02-380**

**Statutory authority:** 32 MRS §§ 2102(2-A), 2152-A(1), 2210

**Chapter number/title:** **Ch. 12**, Joint Rule Regarding Office Based Treatment of Opioid Use Disorder (*a joint rule with 02-373 and 02-383*)

**Filing number:** **2020-108**

**Effective date:** 4/29/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

To ensure safe and adequate treatment of opioid use disorder with approved medications in an outpatient medical setting (office-based opioid treatment).

**Basis statement:**

The Board of Licensure in Medicine (BOLIM) has reviewed multiple complaints and investigations regarding Maine licensed physicians providing office based opioid treatment (OBOT) raising concern surrounding knowledge of and compliance with prevailing standards of care. Due to the need for increased treatment in this State, many physicians providing OBOT in Maine have transitioned in their practice from other treatment specialties and are not experts in addiction medicine, mental health, or prescribing of buprenorphine. Deficiencies regarding OBOT noted by the BOLIM during its investigations have included:

- Inadequate facilities: lack of patient privacy; lack of appropriate facilities for urine collection.
- Inadequate medical record keeping: failure to query the prescription monitoring program (PMP); failure to document PMP checks; failure to attempt to obtain the patient's prior medical records; failure to document medical decision making.
- Inadequate or no referral to counseling and other services.
- Inadequate or no toxicological testing to confirm use of buprenorphine and exclude other non-prescribed legal and illegal substances.
- Co-prescribing buprenorphine, amphetamines, hypnotics, and benzodiazepines.
- Inadequate patient assessment for treatment needs.

**Fiscal impact of rule:**

*(no response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Professional and Financial Regulation,  
**State Board of Nursing**

**Umbrella-Unit:** **02-380**

**Statutory authority:** 32 MRS §§ 2102(2-A), 2153-A(1), 2210

**Chapter number/title:** **Ch. 21**, Use of Controlled Substances for Treatment of Pain (*a joint rule with 02-373, 02-383, and 02-396*)

**Filing number:** **2020-124**

**Effective date:** 5/27/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments: add a table of contents to make the rule easier to use; add new definitions for "hospice services" and "terminally ill"; add section three, applicability of rule, to clarify that the rule does not apply to treatment of inpatients at medical facilities or any custodial care facility where patients do not have possession or control over their medications and medications are dispensed or administered by a licensed, certified, or registered health care provider, or to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule; provide clarification by merging the sections for exemptions to dosage limits with exemptions to days' supply; provide clarification regarding the use of the CDC Guidelines for prescribing opioids for chronic pain; and incorporate existing continuing medical education requirements for podiatrists.

**Basis statement:**

This is an update to an existing joint rule (ch. 21) regarding the use of controlled substances for the treatment of pain in Maine, which consists of four sections:

**Section 1** sets out the purpose of the joint rule.

**Section 2** defines terms used throughout the rule.

**Section 3** establishes exemptions from the rule.

**Section 4** establishes principles of proper pain management, including:

- Developing and maintaining competence
- Universal precautions
- Reportable acts
- Compliance with controlled substance laws and regulations
- Compliance with CDC guideline for prescribing opioids for chronic pain

**Section 5** requires continuing education regarding opioid prescribing.

The boards initiated the current rule making process following receipt of concerns from the public regarding the potentially adverse impact of the rule upon the treatment of certain patient populations. More specifically, the boards received information from the Maine Medical Association, the American Cancer Society, Home Care & Hospice Alliance of Maine, and a physician who provides hospice care expressing concerns regarding the relevance and applicability of the rule to hospice patients. In addition, the boards received information from the Maine Medical Association questioning the relevance and applicability of the rule to patients in long-term residential living facilities, and concerns regarding the existing language of the rule regarding exemptions to dosage and day limits and an apparent mandate that clinicians follow the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016." The boards agreed with the concerns expressed regarding the existing joint rule, and thus proposed the current amendments. Copies of the correspondence from the various entities and persons described above are attached to this basis statement and response to comments.

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The current amendments to the joint rule would:

1. Add a table of contents for better ease of use.
2. Add a definition of "Hospice Services" as defined in Title 22 MRS §8621, subsection 11 ("a range of interdisciplinary services provided on a 24-hours-a-day, 7-days-a-week basis to a person who is terminally ill and that person's family. Hospice services must be delivered in accordance with hospice philosophy.")
3. Add a definition of "Terminally Ill" as defined in Title 22 MRS §8621, subsection 17 ("a person has a limited life expectancy in the opinion of the person's primary physician or medical director.")
4. Create a new Section 3, entitled "Applicability of Rule" that would exempt patients in certain custodial care facilities and hospice care patients from the applicability of the rule as follows:

**SECTION 3. APPLICABILITY OF RULE**

**1. Custodial Care Facilities**

This rule does not apply to the treatment of patients who are in-patients of any medical facility or to the treatment of patients in any custodial care facilities (including nursing homes, rehabilitation facilities, and assisted living facilities) where the patients do not have possession or control of their medications and where the medications are dispensed or administered by a licensed, certified or registered health care provider.

**2. Hospice Care**

This rule does not apply to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule.

5. Make a minor organizational change to previous Section 3(2)(e) and (f) (now Section 4(2)(e) and (±)) to clarify that the limits and the exemptions for apply to both "Dosage and Days' Supply."
6. Modify the language of previous Section 3(5) (now Section 4(5)) as follows to clarify that the clinicians should be aware of the CDC Guidelines - rather than following them verbatim - when prescribing controlled substances while treating chronic pain:

**Use of the CDC Guideline for Prescribing Opioids for Chronic Pain**

Clinicians are responsible for being familiar with the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016" (as published in the U.S. Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Early Release/Vol. 65, March 15, 2016.) when prescribing controlled substances for the treatment of chronic pain. Copies of the CDC guideline may be obtained at: <http://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm> .

**Fiscal impact of rule:**

Minimal.





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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 Optometry**

**Umbrella-Unit:** **02-382**

**Statutory authority:** 34-A MRS sub-ch. III §2423

**Chapter number/title:** **Ch. 1**, Examination; Approved Schools; License Renewal; Fees; Continuing Education; **Section 4**, Fees: **(C)**, Late Renewal Fee

**Filing number:** **2020-021**

**Effective date:** 2/9/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The Board needs to increase the annual license fee from \$350.00 to \$380.00 and late renewal fee from \$75.00 to \$100.00 to adequately provide revenue for the board to conduct its function.

**Basis statement:**

This rule is increasing the annual license fee from \$350.00 to \$380.00 and late renewal fee from \$75.00 to \$100.00. The Board is increasing these fees to adequately provide revenue for it to conduct its functions due to increase in legal fees, rental and salary. Under 34 MRS §2423, neither the Board's annual license fee nor its late renewal fee can exceed \$400.

**Fiscal impact of rule:**

No fiscal impact on State government.



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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 Osteopathic Licensure**

**Umbrella-Unit:** **02-383**

**Statutory authority:** 10 MRS §8003(5)(C)(4); 32 MRS §§ 2562, 2594-E(5), 3269(7),  
3270-E(5)

**Chapter number/title:** **Ch. 2**, Joint Rule Regarding Physician Assistants (*jointly with*  
*02-373, Board of Licensure in Medicine*)

**Filing number:** **2020-247**

**Effective date:** 12/16/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

To amend an existing joint rule to implement PL 2020 ch. 627, "An Act to Improve Access to Physician Assistant Care"

**Basis statement:**

The Board of Licensure in Medicine and the Board of Osteopathic Licensure (boards) were created by the Legislature with the sole purpose of protecting the public. 10 MRS §8008 provides:

**§8008. Purpose of occupational and professional regulatory boards**

**The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare.** A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. **Other goals or objectives may not supersede this purpose.**

It is with this purpose in mind that the boards approach the current rule making regarding ch. 2.

On March 18, 2020 L.D. 1660, a bill entitled "An Act to Improve Access to Physician Assistant Care" was emergently enacted into law in the State of Maine. Prior to its enactment by the full Legislature, L.D. 1660 was reviewed by the Joint Standing Committee on Health Coverage, Insurance and Financial Services (HCIFS), including oral and written testimony in support of and in opposition to the bill. Several individuals and organizations opposed the bill arguing that removing physician delegation and supervision over physician assistants would result in less oversight of physician assistant practice, unnecessary risk to the public, and independent practice by physician assistants who lack post-graduate residency training in a given medical specialty. Individual physician assistants and the Maine Association of Physician Assistants supported the bill arguing that physician assistants are trained medical professionals who should be treated as colleagues and work "in collaboration" with physicians - not under their supervision. In addition, the HCIFS Committee was presented with testimony regarding the differences between the education and training of physicians (4 years of medical school followed by at least 3 years of residency training in a medical specialty) and physician assistants (2 years of school and no residency training) as well as the administrative paperwork burden placed on physician assistants, physicians, and health care systems regarding physician supervision requirements and written plans of supervision.

The Board of Licensure in Medicine and Board of Osteopathic Licensure (boards) submitted joint written testimony informing the HCIFS Committee that the bill would "represent a significant paradigm shift for the regulation and oversight of physician assistants in Maine," convert physician assistants from "dependent" practitioners to "independent"

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practitioners, and remove significant physician oversight and accountability. In addition, the boards pointed out to the HCIFS Committee that physician assistants working outside of health care facilities and physician group practices represented the most significant risk to the public as without physician oversight, supervision, and delegation the bill allowed physician assistants to define their own "scope of practice" with the risk that they could choose to perform services that are beyond their education and training. The HCIFS Committee amended the bill to require that certain physician assistants working outside of health care systems or physician group practices have collaborative agreements or practice agreements with scopes of practice approved by the boards. The significant changes of the new law include:

- Elimination of physician supervision and oversight of physician assistants;
- Elimination of the delegation of medical acts by physicians to physician assistants;
- Elimination of the requirement of plans of supervision and replaced them with collaborative agreements and practice agreements;
- Creation of an exception to the need for either a collaborative agreement or practice agreement for physician assistants with 4,000 hours or more of clinical experience who are working within a health care facility or physician group practice;
- Authorizing physician assistants with less than 4,000 hours of clinical experience to work within health care facilities or physician group practices pursuant to a privileging and credentialing document that delineates the scope of practice (in lieu of a collaborative agreement); and
- Authorizing the Boards to approve or deny the scope of practice delineated in a collaborative agreement or practice agreement.

In sum, the new law created the following four categories of physician assistant practice models in Maine:

1. Physician assistants with **less than 4,000 hours** (post-graduate) of documented clinical experience **working in a health care facility or physician group practice** under a system of credentialing and granting of privileges and pursuant to a written scope of practice agreement.
2. Physician assistants with **less than 4,000 hours** (post-graduate) of documented clinical experience working in a private practice setting **other than** a health care facility or physician group practice under a system of credentialing and granting of privileges pursuant to a written collaborative agreement with a Maine licensed physician.
3. Physician assistants with **more than 4,000 hours** (post-graduate) of documented clinical experience and the principal clinical provider in a practice that does not include a physician partner ( own or operate an independent practice) pursuant to a practice agreement with a Maine licensed physician.
4. Physician assistants with **more than 4,000 hours** (post-graduate) of documented clinical experience and practicing in a setting **other than** as the principal clinical provider in a practice that does not include a physician partner (do not own or operate an independent practice) such as a health care facility or physician group practice. **No credentialing and privileging document, no collaborative agreement, and no practice agreement is required** to be maintained or produced to the boards.

Nearly all stakeholders concurred that the vast majority of physician assistants in Maine worked within health care facilities, which operate pursuant to protocols for educating and training them as well as for evaluating and monitoring the quality of medical services rendered by physician assistants. Therefore, decreasing the administrative burdens in these settings, which provide both oversight and a safety net for physician assistants, arguably did not pose a significant risk to the public. In addition, health care facilities are ultimately legally liable and responsible for any medical services rendered by physician assistants employed by

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them, which should lead to appropriate education, training, and oversight. Finally, health care facilities are mandated by law to report to the boards any adverse employment or privileging decisions regarding physician assistants that are based upon unprofessional conduct or competency issues.

Similarly, nearly all stakeholders agreed that physician assistants who worked alone outside of health care facilities or physician group practices represent the greatest risk to the public due to the lack of oversight and evaluation. Therefore, the Legislature gave the boards the responsibility of reviewing and approving the scopes of practice for these physician assistants who may perform medical services pursuant to a collaborative agreement or practice agreement. As indicated earlier, prior to the enactment of this law that responsibility fell to the physician(s) supervising the physician assistant(s). **As evidence of this intent, the new law specifically provided that both collaborative agreements and practice agreements must include the scope of practice for the physician assistant and specifically provided that both collaborative agreements and practice agreements "shall be submitted to the board for approval by the physician assistant.**

The new law specifically provides that "scope of practice" for physician assistants "is determined by the practice setting" and that a physician assistant "**may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform.**" Thus, in evaluating any proposed scope of practice, the legislation requires the boards to consider the physician assistant's education, training and experience, and competency as well as the practice setting. This is to ensure that the public is competently and safely served. For example, the public would not be safely or competently served by a physician assistant with more than 4,000 hours of clinical experience and who has been practicing for ten (10) years in orthopedics, and who decides to open a private practice in which she is the principal clinical provider without a physician partner providing general family practice services. Because orthopedics is a medical specialty that is significantly different from family practice, allowing a physician assistant to make such a change -- without oversight, additional training and/or re-education -- may endanger the public.

In addition, to emphasize the HCIFS Committee's (and hence the Legislature's) intent to implement this new model of physician assistant oversight in Maine, the new law included the following language:

**Construction.** To address the need for affordable, high-quality health care services throughout the State and to expand, in a safe and responsible manner, access to health care providers such as physician assistants, **this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.**

**Fiscal impact of rule:**

Minimal.

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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 Osteopathic Licensure**  
**Umbrella-Unit:** **02-383**  
**Statutory authority:** 32 MRS §§ 2562, 2600-C  
**Chapter number/title:** **Ch. 12** (*New*), Joint Rule Regarding Office Based Treatment of Opioid Use Disorder (*jointly with 02-373, Board of Licensure in Medicine, and 02-380, State Board of Nursing*)  
**Filing number:** **2020-109**  
**Effective date:** 4/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To ensure safe and adequate treatment of opioid use disorder with approved medications in an outpatient medical setting (office-based opioid treatment).

**Basis statement:**

The Board of Licensure in Medicine (BOLIM) has reviewed multiple complaints and investigations regarding Maine licensed physicians providing office based opioid treatment (OBOT) raising concern surrounding knowledge of and compliance with prevailing standards of care. Due to the need for increased treatment in this State, many physicians providing OBOT in Maine have transitioned in their practice from other treatment specialties and are not experts in addiction medicine, mental health, or prescribing of buprenorphine. Deficiencies regarding OBOT noted by the BOLIM during its investigations have included:

- Inadequate facilities: lack of patient privacy; lack of appropriate facilities for urine collection.
- Inadequate medical record keeping: failure to query the prescription monitoring program (PMP); failure to document PMP checks; failure to attempt to obtain the patient's prior medical records; failure to document medical decision making.
- Inadequate or no referral to counseling and other services.
- Inadequate or no toxicological testing to confirm use of buprenorphine and exclude other non-prescribed legal and illegal substances.
- Co-prescribing buprenorphine, amphetamines, hypnotics, and benzodiazepines.
- Inadequate patient assessment for treatment needs.

**Fiscal impact of rule:**

*(no response)*

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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 Osteopathic Licensure**

**Umbrella-Unit:** **02-383**

**Statutory authority:** 32 MRS §§ 2562, 2600-C

**Chapter number/title:** **Ch. 21**, Use of Controlled Substances for Treatment of Pain  
*(jointly with 02-373, Board of Licensure in Medicine; 02-380, State Board of Nursing; and 02-396, Board of Licensure of Podiatric Medicine)*

**Filing number:** **2020-125**

**Effective date:** 5/27/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments: add a table of contents to make the rule easier to use; add new definitions for "hospice services" and "terminally ill"; add section three, applicability of rule, to clarify that the rule does not apply to treatment of inpatients at medical facilities or any custodial care facility where patients do not have possession or control over their medications and medications are dispensed or administered by a licensed, certified, or registered health care provider, or to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule; provide clarification by merging the sections for exemptions to dosage limits with exemptions to days' supply; provide clarification regarding the use of the CDC Guidelines for prescribing opioids for chronic pain; and incorporate existing continuing medical education requirements for podiatrists.

**Basis statement:**

This is an update to an existing joint rule (ch. 21) regarding the use of controlled substances for the treatment of pain in Maine, which consists of four sections:

**Section 1** sets out the purpose of the joint rule.

**Section 2** defines terms used throughout the rule.

**Section 3** establishes exemptions from the rule.

**Section 4** establishes principles of proper pain management, including:

- Developing and maintaining competence
- Universal precautions
- Reportable acts
- Compliance with controlled substance laws and regulations
- Compliance with CDC guideline for prescribing opioids for chronic pain

**Section 5** requires continuing education regarding opioid prescribing.

The boards initiated the current rule making process following receipt of concerns from the public regarding the potentially adverse impact of the rule upon the treatment of certain patient populations. More specifically, the boards received information from the Maine Medical Association, the American Cancer Society, Home Care & Hospice Alliance of Maine, and a physician who provides hospice care expressing concerns regarding the relevance and applicability of the rule to hospice patients. In addition, the boards received information from the Maine Medical Association questioning the relevance and applicability of the rule to patients in long-term residential living facilities, and concerns regarding the existing language of the rule regarding exemptions to dosage and day limits and an apparent mandate that clinicians follow the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016." The boards agreed with the concerns expressed regarding the existing joint rule, and thus proposed the current amendments.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

The current amendments to the joint rule would:

1. Add a table of contents for better ease of use.
2. Add a definition of "Hospice Services" as defined in Title 22 MRS §8621 sub-§11 ("a range of interdisciplinary services provided on a 24-hours-a-day, 7-days-a-week basis to a person who is terminally ill and that person's family. Hospice services must be delivered in accordance with hospice philosophy."
3. Add a definition of "Terminally Ill" as defined in Title 22 MRS §8621 sub-§17 ("a person has a limited life expectancy in the opinion of the person's primary physician or medical director.")
4. Create a new Section 3, entitled "Applicability of Rule" that would exempt patients in certain custodial care facilities and hospice care patients from the applicability of the rule as follows:

**SECTION 3. APPLICABILITY OF RULE**

**1. Custodial Care Facilities**

This rule does not apply to the treatment of patients who are in-patients of any medical facility or to the treatment of patients in any custodial care facilities (including nursing homes, rehabilitation facilities, and assisted living facilities) where the patients do not have possession or control of their medications and where the medications are dispensed or administered by a licensed, certified or registered health care provider.

**2. Hospice Care**

This rule does not apply to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule. ...

5. Make a minor organizational change to previous Section 3(2)(e) and (f) (now Section 4(2)(e) and (±)) to clarify that the limits and the exemptions for apply to both "Dosage and Days' Supply."
6. Modify the language of previous Section 3(5) (now Section 4(5)) as follows to clarify that the clinicians should be aware of the CDC Guidelines - rather than following them verbatim - when prescribing controlled substances while treating chronic pain:

**Use of the CDC Guideline for Prescribing Opioids for Chronic Pain**

Clinicians are responsible for being familiar with the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016" (as published in the U.S. Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Early Release/Vol. 65, March 15, 2016.) when prescribing controlled substances for the treatment of chronic pain. Copies of the CDC guideline may be obtained at: <http://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm> .

**Fiscal impact of rule:**

Minimal.

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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

**Chapter number/title:** **Ch. 350**, Licensing - Scope of Practice, Obligations of Licensees,  
Prohibited Practices

**Filing number:** **2020-176**

**Effective date:** 8/9/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The Innovation, Development, Economic Advancement and Business Committee this session considered LD 875. The committee voted ought not to pass but want to ensure that buyers of manufactured homes receive appropriate notice of their rights and responsibilities in accordance with state law. In order to ensure uniformity in disclosures, the committee requested that the Manufactured Housing Board amend its rules to require the dealer of a manufactured home disclose in writing to the buyer the following: (1) a description of the terms and conditions of the warranty on housing, as described in 10 MRS §1404, and (2) a description of the role of the Manufactured Housing Board and a contact number of the board. The committee also requests that the Manufactured Housing Board amend its rules to require that the installer of a manufactured home discloses in writing to the buyer a description of the terms and condition of the installation warranty.

**Basis statement:**

This rule is in response to LD 875. LD 875 was voted out of committee “ought not to pass”, but the Innovation, Development, Economic Advancement and Business Committee wanted to ensure that buyers of manufactured homes receive appropriate notice of their rights and responsibilities in accordance with state law. The rule requires disclosure forms for the installation and statutory warranty laws.

**Fiscal impact of rule:**

None.



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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 Pharmacy**

**Umbrella-Unit:** **02-392**

**Statutory authority:** 32 MRS §§ 13720, 13721(1)(E), 13723, 13751, 13758, 13759

**Chapter number/title:** **Ch. 12**, Licensure of Manufacturers and Wholesalers

**Filing numbers:** **2020-114**

**Effective date:** 6/6/2020

**Type of rules:** Major Substantive

**Emergency rules:** No

**Principal reason or purpose for rules:**  
*(See Basis Statement)*

**Basis statement:**

2017 Public Law ch. 267, 32 MRS §13759, “An Act to Prohibit Certain Gifts to Health Care Practitioners”, directs the Maine Board of Pharmacy to establish definitions by rule for modest meals and refreshments, and reasonable honoraria. This rule sets standards on exceptions to the general prohibition against manufacturers and wholesalers making gifts to practitioners.

**Fiscal impact of rules:**  
None.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 Pharmacy**  
**Umbrella-Unit:** **02-392**  
**Statutory authority:** 32 MRS §§ 13751(2)(A), 3; 5 MRS §8054  
**Chapter number/title:** **Ch. 36**, Licensure of Opioid Treatment Programs  
**Filing numbers:** **2020-089**  
**Effective date:** 4/4/2020  
**Type of rules:** Routine Technical  
**Emergency rules:** Yes

**Principal reason or purpose for rules:**  
*(See Basis Statement)*

**Basis statement:**

The Maine Board of Pharmacy (“Board”) adopts these emergency rule changes in 02-392 CMR ch. 36, *Licensure of Opioid Treatment Programs* (“OTPs”) pursuant to 32 M.R.S. §13751(2)(A) and (3) and the Board’s emergency rulemaking authority under 5 MRS §8054 and in response to the Governor’s *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor’s Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

**Purpose of Emergency Changes**

As permitted by 32 MRS §13751(3), under ch. 36 section 1 of its rules, the Board has designated OTPs to be a classification of “retail pharmacy” and thereby not subject to all the requirements applicable to retail pharmacies, but subject to some special requirements. Like all retail pharmacies, OTPs must obtain a license from the Board. Ch. 36 section 2. Like all retail pharmacies, no OTP may operate without a pharmacist in charge (“PIC”). Ch. 36 section 4(1). Like all retail pharmacies, the PIC of an OTP is responsible legally and professionally for all activities related to the practice of pharmacy within the licensed facility and for the facility’s compliance with the provisions of the *Maine Pharmacy Act*. Ch. 36 section 4(2). Unlike other retail pharmacies, however, the PIC of an OTP is required to “be physically present at the facility to prepare drugs for delivery” “in properly labeled, patient-specific containers for delivery of such drugs to patients for consumption away from the facility.” Ch. 36 section 4(2) and (3). In other types of retail pharmacies, the PIC is not required to be “physically present” for the preparation of all drug orders. Other licensed pharmacists besides the PIC may fulfill this function.

This emergency rule will amend sections 4(2) and (3) of ch. 36 to remove the requirement that that the PIC be “physically present” for the preparation of all take-home doses and allow other licensed pharmacists who are authorized by the PIC to be present instead. The need for this emergency change is the on-going COVID-19 public health emergency and governmental recommendations and orders for individuals to shelter at home to mitigate the spread of this disease. In response, on March 11, 2020, the Substance Abuse and Mental Health Services Administration (“SAMHSA”) of the United States Department of Health and Human Services issued guidance that would allow states to request that a greater number of patients at OTPs be permitted to receive take-home doses as opposed to receiving single doses administered at the OTP. Maine subsequently requested and obtained permission that expanded the pool of patients eligible for take-home doses. As a result, a significantly greater number of patients is requesting take-home doses, which is significantly increasing the amount of time that PICs must be physically present at their respective OTPs for the preparation of take-home doses. The ability of these PICs to be physically present for all these preparations appears to be unsustainable during the state of emergency. Allowing another

**Annual List of Rulemaking Activity**  
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*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

licensed pharmacist to be physically present instead of the PIC will not compromise the ability of OTPs to safely prepare take-home doses. During any state of civil emergency declared by the Governor related to the COVID-19 virus, no pharmacist will be required to be physically present to prepare drugs for delivery, provided that such drugs are prepared by either an advanced practice registered nurse, a registered professional nurse, or a licensed practical nurse who is: 1) licensed by the State Board of Nursing; 2) licensed by the board as a pharmacy technician; and 3) explicitly designated by the pharmacist in charge to prepare drugs in the absence of a pharmacist.

**Fiscal impact of rules:**

None.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 Pharmacy**  
**Umbrella-Unit:** **02-392**  
**Statutory authority:** 32 MRS §§ 13751(2)(A), 3  
**Chapter number/title:** **Ch. 36**, Licensure of Opioid Treatment Programs  
**Filing numbers:** **2020-148**  
**Effective date:** 7/7/2020  
**Type of rules:** Routine Technical  
**Emergency rules:** No

**Principal reason or purpose for rules:**  
*(See Basis Statement)*

**Basis statement:**

The principal purpose is to make permanent the emergency rule adopted by the Maine Board of Pharmacy (“Board”) on April 4, 2010. The emergency rule changes in 02-392 CMR ch. 36, *Licensure of Opioid Treatment Programs* (“OTPs”) pursuant to 32 MRS §13751(2)(A) and (3) and the Board’s emergency rulemaking authority under 5 MRS §8054 and in response to the Governor’s *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor’s Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

The emergency rule amended Sections 4(2) and (3) of ch. 36 to remove the requirement that that the PIC be “physically present” for the preparation of all take-home doses and allow other licensed pharmacists who are authorized by the PIC to be present instead. This rule was scheduled to terminate on July 3, 2020 and the Board is now making this rule permanent and expanding it to any state of civil emergency proclamation and not just the on-going COVID-19 public health emergency.

Allowing another licensed pharmacist to be physically present instead of the PIC will not compromise the ability of OTPs to safely prepare take-home doses. During any state of civil emergency declared by the Governor, no pharmacist will be required to be physically present to prepare drugs for delivery, provided that such drugs are prepared by either an advanced practice registered nurse, a registered professional nurse, or a licensed practical nurse who is: 1) licensed by the State Board of Nursing; 2) licensed by the board as a pharmacy technician; and 3) explicitly designated by the pharmacist in charge to prepare drugs in the absence of a pharmacist.

Subject to consideration for this rule was the March 11, 2020, the Substance Abuse and Mental Health Services Administration (“SAMHSA”) of the United States Department of Health and Human Services issued guidance that would allow states to request that a greater number of patients at OTPs be permitted to receive take-home doses as opposed to receiving single doses administered at the OTP.

The initial Notice of Proposed Rulemaking was published on May 27, 2020. The Board held a hearing on June 16, 2020, at which one verbal comment was made in general favor of the proposed rule with a recommended modification. The public comment period ended on June 26, 2020, at 5:00 p.m.

**Fiscal impact of rules:**  
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 Podiatric Medicine**

**Umbrella-Unit:** **02-396**

**Statutory authority:** 32 MRS §§ 3605-B, 3657

**Chapter number/title:** **Ch. 21**, Use of Controlled Substances for Treatment of Pain  
*(jointly with 02-373, Board of Licensure in Medicine; 02-380, State Board of Nursing; and 02-383, Board of Osteopathic Licensure)*

**Filing number:** **2020-126**

**Effective date:** 5/27/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments: add a table of contents to make the rule easier to use; add new definitions for "hospice services" and "terminally ill"; add section three, applicability of rule, to clarify that the rule does not apply to treatment of inpatients at medical facilities or any custodial care facility where patients do not have possession or control over their medications and medications are dispensed or administered by a licensed, certified, or registered health care provider, or to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule; provide clarification by merging the sections for exemptions to dosage limits with exemptions to days' supply; provide clarification regarding the use of the CDC Guidelines for prescribing opioids for chronic pain; and incorporate existing continuing medical education requirements for podiatrists.

**Basis statement:**

This is an update to an existing joint rule (ch. 21) regarding the use of controlled substances for the treatment of pain in Maine, which consists of four sections:

**Section 1** sets out the purpose of the joint rule.

**Section 2** defines terms used throughout the rule.

**Section 3** establishes exemptions from the rule.

**Section 4** establishes principles of proper pain management, including:

- Developing and maintaining competence
- Universal precautions
- Reportable acts
- Compliance with controlled substance laws and regulations
- Compliance with CDC guideline for prescribing opioids for chronic pain

**Section 5** requires continuing education regarding opioid prescribing.

The boards initiated the current rule making process following receipt of concerns from the public regarding the potentially adverse impact of the rule upon the treatment of certain patient populations. More specifically, the boards received information from the Maine Medical Association, the American Cancer Society, Home Care & Hospice Alliance of Maine, and a physician who provides hospice care expressing concerns regarding the relevance and applicability of the rule to hospice patients. In addition, the boards received information from the Maine Medical Association questioning the relevance and applicability of the rule to patients in long-term residential living facilities, and concerns regarding the existing language of the rule regarding exemptions to dosage and day limits and an apparent mandate that clinicians follow the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016." The boards agreed with the concerns expressed regarding the existing joint rule, and thus proposed the current amendments.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

The current amendments to the joint rule would:

1. Add a table of contents for better ease of use.
2. Add a definition of "Hospice Services" as defined in Title 22 MRS §8621 sub-§11 ("a range of interdisciplinary services provided on a 24-hours-a-day, 7-days-a-week basis to a person who is terminally ill and that person's family. Hospice services must be delivered in accordance with hospice philosophy."
3. Add a definition of "Terminally Ill" as defined in Title 22 MRS §8621 sub-§17 ("a person has a limited life expectancy in the opinion of the person's primary physician or medical director.")
4. Create a new Section 3, entitled "Applicability of Rule" that would exempt patients in certain custodial care facilities and hospice care patients from the applicability of the rule as follows:

**SECTION 3. APPLICABILITY OF RULE**

**1. Custodial Care Facilities**

This rule does not apply to the treatment of patients who are in-patients of any medical facility or to the treatment of patients in any custodial care facilities (including nursing homes, rehabilitation facilities, and assisted living facilities) where the patients do not have possession or control of their medications and where the medications are dispensed or administered by a licensed, certified or registered health care provider.

**2. Hospice Care**

This rule does not apply to the treatment of patients who are terminally ill and who are receiving hospice services as defined by this rule. ...

5. Make a minor organizational change to previous Section 3(2)(e) and (f) (now Section 4(2)(e) and (±)) to clarify that the limits and the exemptions for apply to both "Dosage and Days' Supply."
6. Modify the language of previous Section 3(5) (now Section 4(5)) as follows to clarify that the clinicians should be aware of the CDC Guidelines - rather than following them verbatim - when prescribing controlled substances while treating chronic pain:

**Use of the CDC Guideline for Prescribing Opioids for Chronic Pain**

Clinicians are responsible for being familiar with the "CDC Guideline for Prescribing Opioids for Chronic Pain- United States 2016" (as published in the U.S. Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Early Release/Vol. 65, March 15, 2016.) when prescribing controlled substances for the treatment of chronic pain. Copies of the CDC guideline may be obtained at: <http://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm> .

**Fiscal impact of rule:**

Minimal.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Professional and Financial Regulation,  
**Board of Speech, Audiology and Hearing**  
**Umbrella-Unit:** **02-643**  
**Statutory authority:** 32 MRS §§ 17203(2), 17103(6), 17301(5)  
**Chapter number/title:** **Ch. 9**, Speech-Language Pathology Assistants  
**Filing number:** **2020-225**  
**Effective date:** 11/8/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

In 2019, the Legislature passed legislation that granted the Board the authority to issue licenses to speech-language pathology assistants. This rulemaking effort was proposed to repeal and replace outdated rules to align with the new statutory provisions and clarify the qualifications for licensure, supervision, and documentation requirements for speech-language pathology assistants regulated by the Board.

**Basis statement:**

The Maine Board of Speech, Audiology and Hearing (“the Board”) is charged by the Legislature with the regulation of speech-language pathologists, audiologists, hearing aid dealer and fitters, temporary speech-language pathologists/audiologists, hearing aid dealer and fitter trainees, and speech-language pathology assistants in the State of Maine for the sole purpose of protecting the public health and welfare. The Legislature granted the Board rulemaking authority pursuant to 32 MRS §17203 to fully implement its statutory mandates.

In 2019, the Legislature passed legislation that granted the Board the authority to issue licenses to speech-language pathology assistants. This rulemaking effort repeals outdated rules and replaces the rules to align with the new statutory provisions to clarify the qualifications for licensure, supervision, and documentation requirements for speech-language pathology assistants regulated by the Board.

The Board held a public hearing on June 1, 2020, to take oral comments, and accepted written comments through June 11, 2020. The public comments received were considered by the Board on August 17, 2020. At that meeting, the Board determined that the rule it intended to adopt is substantially different from the proposed rule, requiring an additional 30-day public comment period. Specifically, the changes from the proposed rule establish the educational and practicum standards depending on level of degree held by applicant and allow the supervising speech-language pathologist to supervise up to 4 part-time speech-language pathology assistants, while also performing any direct client services for which the supervisor is responsible.

**Fiscal impact of rule:**

None.



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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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  
**Chapter number/title:** Ch. 1, Detention and Correctional Standards for Counties and Municipalities  
**Filing number:** 2020-201  
**Effective date:** 8/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The Department of Corrections (Department) adopts the following emergency rule amendment in 03-201 CMR ch. 1, *Detention and Correctional Standards for Counties and Municipalities*. The following mandatory standard is being added:

**K.18. MANDATORY**

The Sheriff or Multi-County Jail Authority or Administrator, in consultation with the medical care provider, shall develop policies and procedures and a written communicable and infectious disease prevention and control program which is reviewed by the Department of Corrections and the Maine Center for Disease Control and Prevention (CDC) and which shall include, at a minimum, prevention measures, an exposure control plan, standard isolation and other precautions for inmates and staff, and requirements for reporting outbreaks. The policies and procedures and program shall cover coronavirus and shall be reviewed at least annually and updated as necessary consistent with Maine CDC and other applicable guidelines. In the event there is an outbreak of coronavirus, the Sheriff or Multi-County Jail Authority or Administrator shall report such outbreak to the Department of Corrections and the CDC and provide a copy of the written plan for responding to the outbreak.

*Evidence of Compliance: Written policy and procedures. Written disease control program. Records of reporting. Written response plan. Inmate records. Facility logs. Interviews. Observations.*

The Department is adopting this rule on an emergency basis to immediately ensure that all jails in the State of Maine have communicable and infectious disease prevention and control plans that will address any potential outbreak of COVID-19. This change is necessary in light of several reported cases of COVID-19 in jails, including the recent outbreak of at least 18 positive COVID-19 cases at the York County Jail. This emergency rule adoption is necessary to protect the health of those individuals incarcerated in and working in the jails and to protect against the spread of COVID-19 among individuals in those jails. Standard rulemaking procedures, including prior public notice, receipt of and response to public comments, and a public hearing, are not being followed due to the urgency of the need to respond to the COVID-19 pandemic. This emergency rulemaking will take effect upon filing with the Secretary of State and will remain in effect for ninety days. 5 MRS §§ 8052(6), 8054(3).

**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 Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §§ 1402, 1403, 3032  
**Chapter number/title:** Ch. 10, Policy and Procedures Manual – Adult:  
**Subsection 20.2**, Drug and Alcohol Testing  
**Filing number:** 2020-033  
**Effective date:** 3/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule was repealed and replaced to create a rule that governs adult facility prisoners only, removing provisions from the current rule that apply to adults under supervision in the community, and also to update the previous rule, which was adopted in 2002 that has not been revised since.

**Basis statement:**

The adopted rule has been updated in numerous respects, including, but not limited to, by adding definitions and other clarifying provisions. Also, the reasons for testing has been expanded to add testing upon intake; prior to transfer to a minimum security facility or minimum security housing unit; and being housed in a minimum security facility or minimum security housing unit. Also, reasons for testing: random basis; condition of being in a substance abuse program; condition of being in a community program; and reasonable suspicion was retained from the previous rule. Further explanation has been added to what constitutes reasonable suspicion for testing. Provisions have been added to describe the possible consequences of testing positive for a nonprescribed drug or for alcohol, testing negative for a prescribed drug prone to trafficking, refusing to submit to a test, tampering with a test, etc.

Regarding the testing process, provisions have been added that cross-reference the DOC's policy on search of transgender and intersex prisoners; incorporate the new classes of disciplinary violations that relate to drug testing; and reflect the latest recommendations on providing water to prisoners who fail to produce a urine specimen immediately. Provisions are also added to encourage prisoners to admit the accuracy of test results. If prisoners do not admit the accuracy of urine results and there is no other evidence of drug or alcohol use, confirmation testing is required. The alcohol breath testing process has also been updated.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 1403, 3048  
**Chapter number/title:** Ch. 10, Policy and Procedures Manual – Adult:  
**Subsection 24.3**, Religious Services  
**Filing number:** 2020-206  
**Effective date:** 9/21/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The primary reason this rule was adopted was to repeal and replace the previous rule, which was adopted in 2009, and has not been updated since. The adopted rule creates a rule governing many aspects of religious services for adult facility prisoners. It explains, while not requiring a prisoner to designate a religious preference, how a prisoner may designate a religious preference or change a religious preference. The adopted rule, among other things, provides procedures for a prisoner to practice his or her religion either individually or in a group setting; outlines the responsibilities of a facility chaplain; addresses the scheduling of religious activities; includes a process for a prisoner to request a religious accommodation; makes provisions for approved volunteers to provide religious services; establishes a Faith Review Committee; addresses religious dietary requirements; describes how a prisoner may acquire approved religious property; allows the Commissioner to establish advisory groups; and lists unauthorized activities.

**Fiscal impact of rule:**  
None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 1402, 1403, 3039  
**Chapter number/title:** Ch. 11, Policy and Procedures Manual – Adult and Juvenile:  
**Subsection 2.12**, Prisoner and Resident Accounts  
**Filing number:** 2020-001  
**Effective date:** 1/7/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The primary reason this rule is being proposed for repeal and replacement is to make changes to the procedure governing prisoner savings accounts, lessening the percentage and limiting the source of prisoner funds taken to pay back monies disbursed from his or her savings account, and expanding the ability of a prisoner to opt out of the savings plan requirement.

Other changes are being proposed for clarification purposes and to reflect current terminology and practices.

**Basis statement:**

Under this adopted rule, a prisoner who borrows money from his or her prisoner savings account (personal escrow savings account) or who has money collected from that account for an obligation is no longer required to pay back the account at the rate of 50% from all incoming monies but only has to pay back the account at the rate of 10% and only from future earnings. Provisions related to disbursements from that account have been added for clarifications purposes. Also, a prisoner who would be 75 years of age or older at the earliest possible release date from his or her sentence is able to opt out of the savings account requirement instead of the prior rule's stipulation that the prisoner must be one who would be 90 years or older at the earliest possible release date.

A provision is added to reflect the statute's requirement and current practice that only monies earmarked for a prisoner's or resident's phone account may be placed into that account, instead of the prisoner's or resident's general account. A provision is added that financial transactions are not allowed between a prisoner or resident and a person with whom the prisoner or resident is prohibited from having contact unless there is a court order allowing the transaction. A provision is added that direct deposits through a web-based credit card system will be treated the same as other direct deposits. The provisions allowing the head of a facility to place a hold on a deposit (which would not ordinarily have a hold), place a longer hold on a deposit, or block a transaction based on reasonable suspicion have been expanded and clarified. The provision for providing indigent prisoners with free certified account statements for filing with a court has been clarified. Finally, an unnecessary provision relating to the meaning of indigency under other policies has been deleted.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Education / State Hoard of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §13104  
**Chapter number/title:** Ch. 112, Professional Standards Board  
**Filing number:** 2020-166  
**Effective date:** 7/26/2020  
**Type of rule:** Routine Tehnical  
**Emergency rule:** No

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

**Basis statement:**

This rule contains procedures guiding the operations of the Professional Standards Board in its role under Title 20-A ch. 502-B to make recommendations to the State Boar and advise the Department of Education.

**Fiscal impact of rule:**  
None.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §13011(1)  
**Chapter number/title:** Ch. 115, The Credentialing of Education Personnel:  
**Part II**, Requirements for Specific Certificates and Endorsements  
**Filing number:** 2020-101  
**Effective date:** 5/23/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

The State Board is reinstating ch. 115 part II, "Requirements for Specific Certificates and Endorsements", which was in effect May 14, 2014. These rules following the emergency adoption of these same versions of ch. 115, will be in effect until such time as the State Board has developed new ch. 115 rules.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §4502(5)  
**Chapter number/title:** Ch. 125, Basic Approval Standards: Public Schools and School Administrative Units  
**Filing number:** 2020-102  
**Effective date:** 5/23/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

The State Board and the Department of Education are proposing the repeal and replacement of ch. 125: *Basic Approval Standards: Public Schools and School Administrative Units*.

The last repeal and replace of State Board of Education/Maine Department of Education Rule ch. 125 was in 2002. The resulting language was highly duplicative of statute. The attached replacement eliminates duplication when possible, and includes minimum requirements where provided in law.

To this end, the rule sets out school approval standards and requirements in a linear fashion, addressing requirements in the order they appear in statute when possible, and providing detail where necessary. For clarity, a chart referenced in Section 4 of the rule resides on the Department web page and contains a comprehensive list of requirements and citations.

Specific revisions to the Rule are as follows:

- Based on a cross-walk conducted by the Department, language which is duplicative of statute or is outdated has been updated or eliminated;
- The definition of school has been revised;
- Unnecessary definitions have been eliminated;
- Certain requirement exceptions for SAUs that tuition all or whole populations of students out of the resident unit have been added;
- Certain requirement exceptions for Career and Technical Regions have been added;
- The Comprehensive Education Plan format determination remains with the SAU, but must equally include and reflect all schools within the unit;
- The minimum requirements as required by M.R.S. 20-A Section 4502(5) are listed in Section 5:
  - 5.01 - Grade Know has a minimum instructional day of 3 hours;
  - 5.03 - added "Areas used for the provision of student services and health services shall be adequate to provide for the privacy and confidentiality of such services;"
  - 5.08 - revised language regarding school counseling program;
  - 5.12 - revised language regarding time out areas to reference Restraint and Seclusion;
  - 5.15 - added family outreach requirement, per statute;
  - 5.16- added language around Promotion, Retention, Acceleration and Graduation of Students;
  - 5.18 - added requirement for Multi-tiered System of Support, per LD 651; and
- Section 7.01 outlining the initial approval process for SAUs was revised to reflect current practice.

**Fiscal impact of rule:**

*(no response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §4504(3)  
**Chapter number/title:** Ch. 125, Basic Approval Standards: Public Schools and School Administrative Units  
**Filing number:** 2020-190  
**Effective date:** 8/24/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

Based on the uncertainties and the multiple modes of instruction that will be used across the State for the 2020-2021 school year as a result of the COVID-19 pandemic, and in response to feedback from educators, superintendents, families, student advocates and community members an amendment to the joint rule of the State Board of Education and the Maine Department of Education is being submitted as an emergency rule to address attendance expectations. In the emergency rule the Department and the State Board will redefine what constitutes an instructional day to remove the requirements of a 5 hour average over a two week minimum, while maintaining the 3 hour daily minimum in Section 5.01(E). A recent survey of Educators, School District Leadership, School Service providers and parents reflected a strong need for modification of attendance requirements to provide the flexibility needed to conduct classes in-person and remotely, synchronously and asynchronously.

This is an emergency because the schools are preparing to reopen, some in mid-August, and need to know what the requirements will be in order to address attendance in a consistent fashion. Due to the planned reopening in mid-August for many school administrative units, there is not sufficient time to follow the APA requirements of a hearing and a public comment period.

The emergency rule will be enforceable for up to one year from the date of filing.

**Fiscal impact of rule:**

None.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §6211  
**Chapter number/title:** Ch. 132, Learning Results: Parameters for Essential Instruction  
**Filing number:** 2020-139  
**Effective date:** 7/18/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

As part of this revision, the English Language Arts, Math and Career and Education Development standards have been reformatted into our newly designed Maine Learning Results structure. This structure divides each content standards into three stages of development, childhood, pre-adolescence, and adolescence. Within these stages, we have also identified the associated grade levels, elementary, middle, high school. Additionally, we have standardized the language used so that the following three descriptors mean the same for each content area. These descriptors and their corresponding definitions are:

**Strand:** A body of knowledge in a content area identified by a simple title.

**Standard:** Enduring understandings and skills that students can apply and transfer to contexts that are new to the student.

**Performance Expectation:** Building blocks to the standard and measurable articulations of what the student understands and can do.

**Basis statement:**

As part of this revision, the English Language Arts, Mathematics, and Career and Education Development standards have been reformatted into our newly designed Maine Learning Results structure. This structure divides each content standards into three stages of development, childhood, pre-adolescence, and adolescence. Within these stages, we have also identified the associated grade levels, elementary, middle, high school. Additionally, we have standardized the language used so that the following three descriptors mean the same for each content area. These descriptors and their corresponding definitions are:

**Strand:** A body of knowledge in a content area identified by a simple title.

**Standard:** Enduring understandings and skills that students can apply and transfer to contexts that are new to the student.

**Performance Expectation:** Building blocks to the standard and measurable articulations of what the student understands and can do.

The Career and Education Development standards have been renamed, Life and Career Ready standards, and have been built from the implicit intent of the 2007 Career and Education Development Standards and explicitly articulate the interdependent relationships among the knowledge, skills, and attitudes of career development, academic learning, and the Maine Learning Results Guiding Principles. The standards articulate the symbiotic relationship among self-knowledge, self-management, aspirations, career awareness, planning and adaptability in ever-evolving life and career environments. The performance expectations of the Life and Career Ready standards are articulated in developmental progressions that reveal changes in the complexity of what a student can do in contexts that shift from classroom, to school, to local community, to global community all designed to lead to fluid expression of conceptual understandings and skill sets needed for post high school opportunities.

Minor adjustments to the Mathematics standards language has been made to fit in the provided template. The 8 mathematical practice standards were not changed during the reformatting but were connected to the guiding principles that are part of the Maine Learning Results. The initial structure of the Mathematics standards had grade level/grade spans, domains, cluster titles, content standards, and mathematical practice standards. The

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

reformatting of the standards resulting in relabeling the structure to now be grade level/grade span, strand, standard, performance expectations, and guiding principles/mathematical practice standards. Through this reformatting the number of standards were reduced and the vertical progression of learning within and across grade levels/spans were articulated. The original structure of the standards contained an overall total of 507 standards (K-12), with 46 identified at the high school level as advanced standards. The new structure of the standards contains an overall total of 109 standards (K-12), with 12 identified at the high school level as advanced standards.

The English Language Arts standards have been revised to be streamlined and direct, reflecting the essential learning for ELA/literacy development. The standards are revised in teacher-friendly language and maintain the four strands currently found in the CCSS: reading, writing, speaking & listening, and language. The proposed speaking and listening standards have been condensed from six standards to four. Two standards for comprehension and collaboration combine expectations for listening to gain knowledge and evaluate speakers with digital literacy development to honor current learning opportunities and resources. The proposed reading standards are significantly reorganized. Three foundational skills standards currently separated from the reading standards are moved to the front of the reading strand with expectations for continued support of foundational skills throughout the literacy progressions. Three standards each for key ideas and details and for craft and structure remain but are expressed as essential concepts for literacy development and are no longer articulated in separate standards for literature, informational, history/social studies, or science/technical texts. The text-specific details will move to guidance and support instead of remaining as separate grade-specific performance expectations. Three standards for integration of knowledge and ideas are combined to reflect to primary areas of study for this category of literacy development. One standard for range of reading and level of text complexity has been moved to the reading preamble, a statement of overall intention for the development of reading skills. The final reading standard is the fourth foundational standard and addresses fluency as an expectation for K-12 development. The proposed writing standards represent the greatest change to the document and reflect the most critical aspects of developing strong writing skills. Ten standards are reduced to three: inquiry to build and present knowledge, process and production, and composing for audience and purpose. Range of writing, like reading, becomes a component of the strand preamble and articulates the expectations for writing development. The standards for text types and purposes move to guidance and support to provide teachers more flexibility in developing a variety of writing forms. The process and production standard incorporates the development of digital literacies and evolving use of technology. Composing for audience and purpose also reflects the development of digital literacy and wide variety of writing, composing, collaborating, and publishing opportunities presented to students today. The proposed writing standards do not articulate separate expectations for content writing development.

**Fiscal impact of rule:**

None.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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:** 2020-140  
**Effective date:** 7/18/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

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

**Basis statement:**

Last session, 20-A MRS §13704 was amended by PL 2019 ch. 27 to remove the requirement that student learning and growth measures be used as a measure of educator effectiveness. In addition, the composition of the steering committee required by statute was changed to require that a majority of the committee members be teachers who must be chosen by the local representative of the applicable collective bargaining unit.

Ch. 27 further required that this rule be amended in accordance with the changes to the statute. As a result these amendments provide that Section 7, "Student Learning and Growth Measures", will no longer be required as of September 1, 2021. School administrative units will have flexibility in developing multiple measures of educator effectiveness on the local level. Section 13 sub-section 3 has been revised to reflect "A majority of the steering committee members must be teachers and must be chosen by the local representative of the applicable collective bargaining unit if the teachers in the school administrative unit are covered by a collective bargaining agreement." The Department will be developing guidance on types of measures to be available on the PEPG General Resources web page.

The Department has made three additional changes to the rule to clarify wording.

**Fiscal impact of rule:**  
None.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 580, 580-A, 580-B, 580-C, 585-A  
**Chapter number/title:** Ch. 156, CO<sub>2</sub> Budget Trading Program  
**Filing number:** 2020-196  
**Effective date:** 8/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This filing updates the rules governing the Regional Greenhouse Gas Initiative to conform with the updated Model Rule published by RGGI, Inc. on December 19, 2017 and revised on December 14, 2018. The changes maintain Maine's participation in the program through 2030 and beyond by defining Maine's emissions cap and rate of cap reduction in alignment with the other participating states.

**Basis statement:**

The final rules establish the operating parameters for the state's participation in the Regional Greenhouse Gas Initiative (RGGI), a regional cap-and-trade program that limits and reduces CO<sub>2</sub> emissions from affected fossil fuel-burning power generation facilities. General statutory authority for ch. 156 and 158 is provided by 38 MRS §§ 585-A, 580, 580-A, 580-B, and 580-C.

RGGI member states periodically review and update the program to consider program successes, impacts, and design elements, and to allow stakeholders and interested parties to contribute to and participate in the operation of the program. When program review results in changes to the Model Rule, member states must align their rules and statutes with the Model Rule in order to assure compatibility among the individual regulations and fungibility of CO<sub>2</sub> allowances across all markets. Changes in the Model Rule incorporated in this rulemaking include the elimination of two offset categories, and the addition of an optional Emissions Containment Reserve, allowing states to withdraw a limited number of allowances from an auction if the bid price is below a pre-set threshold.

This rulemaking was initiated by the Board's posting of the Department's revised draft rule for a thirty-day written public comment period beginning on April 29, 2020 and closing on June 1, 2020. The comment period closed with no comments having been received, and no requests for a Public Hearing. After the close of the public comment period, the Department made several non-substantive housekeeping changes to the proposed ch. 156, clarifying the intent of a subparagraph and correcting internal references and grammar. No changes were made to the proposed ch. 158.

**Fiscal impact of rule:**

None. The program is self-funded and provides significant revenues for various energy-saving programs in Maine.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 580, 580-A, 580-B, 580-C, 585-A  
**Chapter number/title:** Ch. 158, CO<sub>2</sub> Budget Trading Program Auction Provisions  
**Filing number:** 2020-197  
**Effective date:** 8/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This filing updates the rules governing the Regional Greenhouse Gas Initiative to conform with the updated Model Rule published by RGGI, Inc. on December 19, 2017 and revised on December 14, 2018. The changes maintain Maine's participation in the program through 2030 and beyond by defining Maine's emissions cap and rate of cap reduction in alignment with the other participating states.

**Basis statement:**

The final rules establish the operating parameters for the state's participation in the Regional Greenhouse Gas Initiative (RGGI), a regional cap-and-trade program that limits and reduces CO<sub>2</sub> emissions from affected fossil fuel-burning power generation facilities. General statutory authority for ch. 156 and 158 is provided by 38 MRS §§ 585-A, 580, 580-A, 580-B, and 580-C.

RGGI member states periodically review and update the program to consider program successes, impacts, and design elements, and to allow stakeholders and interested parties to contribute to and participate in the operation of the program. When program review results in changes to the Model Rule, member states must align their rules and statutes with the Model Rule in order to assure compatibility among the individual regulations and fungibility of CO<sub>2</sub> allowances across all markets. Changes in the Model Rule incorporated in this rulemaking include the elimination of two offset categories, and the addition of an optional Emissions Containment Reserve, allowing states to withdraw a limited number of allowances from an auction if the bid price is below a pre-set threshold.

This rulemaking was initiated by the Board's posting of the Department's revised draft rule for a thirty-day written public comment period beginning on April 29, 2020 and closing on June 1, 2020. The comment period closed with no comments having been received, and no requests for a Public Hearing. After the close of the public comment period, the Department made several non-substantive housekeeping changes to the proposed ch. 156, clarifying the intent of a subparagraph and correcting internal references and grammar. No changes were made to the proposed ch. 158.

**Fiscal impact of rule:**

None. The program is self-funded and provides significant revenues for various energy-saving programs in Maine.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 420, 464(5); PL 2019 ch. 463  
**Chapter number/title:** Ch. 584, Surface Water Quality Criteria for Toxic Pollutants  
**Filing number:** 2020-024  
**Effective date:** 2/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department amends the existing ch. 584: *Surface Water Quality Criteria for Toxic Pollutants*. This rule establishes ambient water quality criteria for toxic pollutants in the surface waters of the State and sets forth procedures that may be used to determine alternative statewide criteria or site-specific criteria adopted as part of a licensing proceeding. The purpose of the rulemaking is to implement Human Health Criteria based on updates to 38 MRS §466 sub-§10-A for the designated use of sustenance fishing, institute water effect ratios (WERs) for the Androscoggin and St. Croix rivers, as well as promulgate new ambient water quality criteria (AWQC) for copper in the Little Androscoggin River based on the Biotic Ligand Model (BLM), and introduce carbaryl in the non-priority pollutant list. The rule also updates AWQC for human health using methodology from the U.S. Environmental Protection Agency (USEPA) Human Health Ambient Water Quality Criteria 2015 update.

**Basis statement:**

This statement is adopted by the Department of Environmental Protection (Department or DEP) pursuant to the *Maine Administrative Procedure Act* (APA), 5 MRS §8052(5), which requires agencies, at the time of adoption of any rule, to also adopt a written statement explaining the basis for the rule.

Maine law, 38 MRS §420(2), requires the Department to regulate toxic substances in the surface waters of the State pursuant to state water quality criteria, consisting of levels set forth in federal water quality criteria as established by the United States Environmental Protection Agency (EPA) pursuant to the *Federal Clean Water Act* (CWA) Section 304(a) or pursuant to adoption of alternative statewide or site-specific criteria found to be protective of the most sensitive designated use of the water body.

This rulemaking revises an existing Maine DEP rule, 06-096 CMR ch. 584, effective date July 29, 2012, with an original effective date of May 17, 1993. The original rule was established in response to amendments to the CWA in 1987 and amendments to 38 MRS §420 enacted in 1991, both of which required Maine to develop comprehensive rules dealing with toxic pollutants in licensed wastewater discharges. The Department established and has managed a surface waters toxics control program since at least the effective date of the original rule.

The purpose of these revisions is to: calculate and establish human health criteria for toxic pollutants (HHC) to protect the new sustenance fishing designated use (SFDU) established as a subcategory of the applicable fishing designated use for certain specified segments of waterbodies in the State within Maine's water classification program, 38 MRS §§ 464-470, as specified by PL 2019 ch. 463 (*An Act to Protect Sustenance Fishing*, or LD 1775); institute water effect ratios (WERs) for the Androscoggin and St. Croix rivers; promulgate new ambient water quality criteria (AWQC) for copper in the Little Androscoggin River based on the Biotic Ligand Model (BLM); and introduce carbaryl in the non-priority pollutant list. Further, these revisions also establish updated Maine AWQC for 94 existing HHC for all waters not expressly subject to the new SFDU using the methodology and final

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

values from the EPA Human Health Ambient Water Quality Criteria 2015 updates (2015 HHC updates), except for aluminum, copper, and selenium, which are not being updated at this time, and by also using Maine-specific fish consumption rates (FCRs) as applicable. The Department anticipates that the revised rule will operate successfully within the Department's existing program.

**Fiscal impact of rule:**

This rule revision is anticipated to result in no appreciable increased costs to the regulated community or to the Department.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 1694  
**Chapter number/title:** Ch. 890 (New), Designation of PFOS and Its Salts as Priority Chemicals  
**Filing number:** 2020-167  
**Effective date:** 7/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The final rule designates perfluorooctane sulfonic acid (“PFOS”) and specific salts of PFOS as priority chemicals and requires reporting for certain categories of product that contain these regulated chemicals and that when used or disposed of will likely result in a child under 12 years of age or a fetus being exposed to these chemicals. The final rule applies to manufacturers of specified product categories that contain intentionally added amounts of these chemicals and seeks to gather information which would clarify the prevalence of use of the listed chemicals.

The designation of PFOS and its salts as Priority Chemicals meets the statutory criteria for designation as specified in 38 MRS §1694(1). Maine CDC concurrence for the proposed rule is based on the chemicals’ category 1A reproductive toxicity classification on the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). The Department hereby accepts and adopts by reference the Maine CDC PFOS Priority Designation Concurrence Letter, dated February 23, 2018, which is attached and incorporated into this Basis Statement. The Department also accepts and adopts by reference the underlying science, data, and documents that Maine CDC developed and utilized with respect to its February 23, 2018 letter.

As this chapter 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 proposed priority chemicals. Filing the required report information with the Department is expected to impose only nominal costs. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management. This fee is dependent upon the number of regulated products and the concentration of the priority chemical in each.

The proposed rule was originally posted for Departmental rulemaking with a public comment period beginning April 3, 2019. A Department public hearing was held on April 23, 2019, and the comment period closed May 6, 2019. After the close of this initial public comment period, new information about the prevalence of PFOS in Maine’s biosolids highlighted the continuing possibilities of exposure and caused the Department to undertake revisions to the draft rule. This initial rulemaking period terminated with no formal action by the Commissioner. Effective September 19, 2019, responsibility for all rulemaking shifted to the Board of Environmental Protection. A new rulemaking proceeding was initiated by the Board’s posting of the Department’s revised draft rule for a thirty-day written public comment period beginning on October 2, 2019 and closing on November 4, 2019. Before the close of the comment period six requests for a public hearing were received. The comment period was reopened on January 1 and the Board held a public hearing on January 23, 2020. The Department made changes to the draft rule to include specific salts of PFOS and other minor

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

changes, and the Board reopened the comment period on February 3, 2020. This final comment period closed on March 9, 2020.

**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 proposed priority chemical. Filing the required report information with the Department is expected to impose only nominal costs. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management. This fee is dependent upon the number of regulated products and the concentration of the priority chemical in each.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 12452, 12461  
**Chapter number/title:** Ch. 1, Open Water and Fishing Regulations  
**Filing number:** 2020-221  
**Effective date:** 1/1/2021  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These rules are designed to provide for the effective conservation of game fish throughout the state and provide for a variety of fishing opportunities. The rules set specific season dates, bag limits, length limits, tackle restrictions, and other special regulations designed to accomplish fisheries management objectives. Additionally, a recent review and digitization of all special regulations during the development of the Fishing Laws Online Angling Tool (FLOAT) identified several errors, conflicts, or confusing regulations. Solutions to correct and clarify those regulations consistent with original intent and/or common interpretation are also included in the amended rules. A list of proposals containing information regarding each proposal was provided during the comment period.

**Basis statement:**

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2021 ice fishing and open water seasons. The State Heritage Fish Waters list has also been amended with the addition and removal of certain 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 are retained.

The Department, in a notice advertised August 12, 2020, proposed changes to open water and ice fishing regulations and modifications to State Heritage fish waters. One (1) water was added to the State Heritage Fish Waters list and two (2) waters were removed. A new approach was implemented involving the use of "Regulation Themes", where rule proposals were "categorized" to create immediate awareness regarding the general content of each category. The themes in the current regulations packet including the number of changes within each theme are as follows: Special Need (6); Lake Trout (Togue) Growth (4); Landlocked Salmon Growth (1); Angling Opportunity (5); New Special Regulation Listing (1); Simplify to General Law (14); Trout to Brook Trout (44); Errors, Conflicts, and Confusions (64).

The proposed changes were advertised with one public hearing held virtually via Microsoft Teams (minutes attached) with 5 citizens in attendance. The Department also received 75 comments in writing both for and against various proposals (comment summary with justifications attached). Written comments were acknowledged and forwarded to the Commissioner's Advisory Council as well as appropriate staff for consideration.

On October 20, 2020, the Commissioner brought forward the original proposal for adoption by the Advisory Council. The nine (9) members present voted unanimously in favor to adopt the fishing regulations package for 2021 as presented.

Copies of the publication will be available from license agents, on the Department's website or from the Department of Inland Fisheries and Wildlife, 284 State Street, Augusta, ME 04333-0041. This body of rules is posted in its entirety on the Department's website and in a hard copy publication entitled **Open Water & Ice Fishing Laws and Rules (January 1, 2021 – December 31, 2021)** and by authority of Title 12 MRS Section §12452, is an official

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consolidation of the open water and ice fishing rules as maintained by the Department in an electronic version and distributed through electronic means.

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 12452, 12461  
**Chapter number/title:** Ch. 1-A, State Heritage Fish Waters  
**Filing number:** 2020-222  
**Effective date:** 1/1/2021  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These rules are designed to provide for the effective conservation of game fish throughout the state and provide for a variety of fishing opportunities. The rules set specific season dates, bag limits, length limits, tackle restrictions, and other special regulations designed to accomplish fisheries management objectives. Additionally, a recent review and digitization of all special regulations during the development of the Fishing Laws Online Angling Tool (FLOAT) identified several errors, conflicts, or confusing regulations. Solutions to correct and clarify those regulations consistent with original intent and/or common interpretation are also included in the amended rules. A list of proposals containing information regarding each proposal was provided during the comment period.

**Basis statement:**

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The proposed changes were advertised with one public hearing held virtually via Microsoft Teams (minutes attached) with 5 citizens in attendance. The Department also received 75 comments in writing both for and against various proposals (comment summary with justifications attached). Written comments were acknowledged and forwarded to the Commissioner's Advisory Council as well as appropriate staff for consideration.

On October 20, 2020, the Commissioner brought forward the original proposal for adoption by the Advisory Council. The nine (9) members present voted unanimously in favor to adopt the fishing regulations package for 2021 as presented.

Copies of the publication will be available from license agents, on the Department's website or from the Department of Inland Fisheries and Wildlife, 284 State Street, Augusta, ME 04333-0041. This body of rules is posted in its entirety on the Department's website and in a hard copy publication entitled **Open Water & Ice Fishing Laws and Rules (January 1, 2021 – December 31, 2021)** and by authority of Title 12 MRS Section §12452, is an official



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consolidation of the open water and ice fishing rules as maintained by the Department in an electronic version and distributed through electronic means.

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §12505  
**Chapter number/title:** Ch. 2, Rules Pertaining to Commercial Fishing, Fish Culture and Fishing Derbies and Tournaments: 2.05, Bass Fishing Tournaments  
**Filing number:** 2020-023  
**Effective date:** 2/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule is designed to allow bass clubs more opportunity for participation during a club event, while limiting social concerns, including congestion at public boat launches. The popularity of bass tournament angling has increased and thus membership in many clubs has increased. In the past, clubs have had to decide which members must sit out in order to remain compliant with the rule.

**Basis statement:**

This rule is an effort to provide more opportunity for organized bass fishing tournaments to increase the number of participants at club events. Currently, clubs were allowed up to 15 boats and the Department proposed to increase the number of boats participating to 20, but only on waters that were 1,000 acres or larger in size where the clubs were able to utilize offsite parking. The rule should reduce some of the concerns with congestion at existing public boat launches. The popularity of bass tournament angling has increased and thus membership in many clubs has increased. In the past, clubs have had to decide which members must sit out in order to remain compliant with the rule.

No public hearing was held and only 3 written comments were received. Comments were acknowledged and forwarded to the Commissioner's Advisory Council and Department staff. Two comments were in support of the proposal and one was not germane to the subject matter.

The Commissioner determined a slight clarification to the language was necessary after questions from the organized bass fishing community were posed to staff about whether or not only 5 of the boats would have to find offsite parking. The intent of the rule was to relocate parking associated with the entire event to off-site parking. The proposal was amended to include additional language "*for all participants*" to section 2.05, C.8. to clarify.

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12152  
**Chapter number/title:** Ch. 6, Educational and Scientific Collection Permit Rules  
**Filing number:** 2020-243  
**Effective date:** 12/7/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule will implement consistency between new statutory language and rule language related to collection of wildlife for an educational and scientific collection permit.

**Basis statement:**

The rule addresses a small change in the educational and scientific collection permit rules, ch. 6. In an effort to provide consistency with a statutory change that occurred in 2017 (Public Law 2017 ch. 205), under the scope of rules the term is amended to “wildlife” instead of “wild animals and wild birds.” The term “wildlife” as defined by Title 12 includes all species of the animal kingdom except fish so by making the change it allows the Department to provide permits for people to collect reptiles and amphibians in addition to mammals and birds. A small change was also made in Section 6.12 under transfer of permits. Instead of providing a letter to the permittee we will provide a written authorization the person will keep with them while conducting permitted activities.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12152  
**Chapter number/title:** Ch.7, Rules for Importation, Possession, Propagation, Rehabilitation and Exhibition of Wildlife (Agritourism)  
**Filing number:** 2020-025  
**Effective date:** 2/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

During the 2019 Legislative session LD 355, “An Act to Exclude Domesticated Species Used for Agricultural Purposes from the Laws Governing Permits To Possess Wildlife in Captivity”, was introduced. The bill would’ve exempted wildlife that was domestically raised, hybridized or genetically altered and specifically used for farming or ranching or agritourism activity from the prohibition on keeping wildlife in captivity. This proposed law would have allowed any farmer who used their farm for agritourism (as defined in MRS 7), farming or ranching activity to keep any sort of wildlife as part of their agritourism business and they would not have been required to work with IFW or adhere to guidelines set forth in ch. 7 rules that provide for the safety and welfare of the animal, public safety and safety to our environment should the captive wildlife escape. The bill was pulled and DIFW would propose rulemaking to address the roles of DIFW and DACF and a requirement for the two agencies to clearly communicate the responsibilities of each as it pertains to application review of domestically raised wildlife to be kept in captivity.

The adopted rule will provide clarity to wildlife exhibition permit applicants, farmers, ranchers or agritourism professionals about which agency should be communicated with when interested in exhibiting captive, domesticated wildlife associated with agritourism business.

No public hearing was held, and no written comments were received on the proposal.

After consulting with the Attorney General’s Office, the Commissioner removed the proposed language change in 7.18 Species Lists. The proposed addition of *D. Any species native to Maine* was removed and there were no further changes to the section. By classifying native wildlife, it would have made them eligible for permitting and that was not the intent of the Department when proposing the rule. The Advisory Council met on February 4, 2020 and of the 8 members participating voted unanimously to adopt the amended proposal.

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12909  
**Chapter number/title:** Ch. 14, Commercial Whitewater Rafting  
**Filing number:** 2020-141  
**Effective date:** 6/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Due to the closure of McKay Station access point, training runs for whitewater guides seeking to obtain a Level One or Level Two license are not able to be completed. The emergency rule will temporarily remove language requiring guide training runs from McKay station to a specific section river. New language will temporarily allow runs to start just below the gorge (Little Eddy) on the West Branch of the Penobscot River.

**Basis statement:**

On April 13, 2020, Brookfield Renewable Energy, who is the owner of McKay Hydroelectric Power Station, located on the upper gorge of the West Branch of the Penobscot River, reported a rock slide that did damage to the security fence protecting the access point for commercial and noncommercial whitewater boating activities. Specifically, the rocks weighed an estimated 700 pounds, and the slide occurred off the vertical bedrock wall located approximately ten feet behind the McKay Station.

A geological engineer, hired by the company to make an assessment at the facility, reported that the existing portions of the rock faces are heavily fractured and are at risk of becoming dislodged and toppling without warning. These findings resulted in their decision to keep the river access closed, as it continues to pose an unacceptable public safety hazard.

With McKay Station being closed, it will not allow the commercial and noncommercial boaters to run the upper gorge which is approximately 1,500 feet long section of the river. An alternate put-in location near Little Eddy is being finalized by the owner of the property and the whitewater boating community.

With McKay Station being closed, this directly affects training requirements for a whitewater guide to obtain either a Level One and a Level Two whitewater guide license issued by the Department, outlined in ch. 14.03. Current rule lists a specified number of guided training runs from McKay Station to be completed before being able to obtain a Level One and Level Two License.

These changes are necessary to temporarily remove language in ch. 14.03, that requires a minimum number of guided training runs from McKay Station to a designated rapid down river for a Level One and Level Two license issued by the Department. Language will also address the required number of guided runs when access from McKay Station is allowed.

Legislative findings (12 MRS §12902) state that the recreational use of watercraft on rapidly flowing rivers in this State has become an increasingly popular sport. Many members of the public rely on commercial whitewater outfitters to provide safe and enjoyable trips on these rivers. This sport may pose significant risks to the users of these rivers if outfitters are not skilled and knowledgeable in the navigation of those rivers and are not properly regulated.

The Legislature further found that increased use of the State's rapidly flowing rivers has increased the environmental, physical and social burdens on that resource, and that it is in the public interest for the State, as trustee of the public waters, to regulate commercial whitewater rafting, pursuant to: the State's authority to protect the health, safety and welfare of its citizens; the State's authority to protect its natural resources or rapidly flowing rivers; and the State's authority over the

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care, supervision and protection of navigation. The Legislature further found that, in exercising this authority, it is in the public interest for the State to adopt measures to ensure the competence of commercial whitewater outfitters.

Adoption of these rules on an emergency basis is necessary to avoid an immediate threat to the public safety that would be caused by occurrence of whitewater rafting activities in the vicinity of McKay Station. In addition, the Department finds the adoption of these rules on an emergency basis is necessary for the proper administration, implementation and enforcement of the whitewater rafting laws as provided for by 12 MRS §10104(1).

The Commissioner convened a special meeting of the Advisory Council on Monday, June 15<sup>th</sup> via videoconference (Microsoft Teams) and of the six (6) members present voted unanimously to adopt the emergency rule as presented.

The emergency rule will remain in effect for 90 days in order to allow whitewater guide training requirements to be fulfilled through the summer months. Commercial whitewater rafting trips on Maine's rapidly flowing rivers is at its peak during this time.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 11855  
**Chapter number/title:** Ch. 16, Hunting: 16.11, Migratory Game Bird Hunting  
**Filing number:** 2020-090  
**Effective date:** 4/12/2010  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**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.

After receiving the framework from the United States Fish and Wildlife Service (USFWS), the Department's rule implements Maine's 2020/21 migratory bird hunting seasons by selecting season dates and bag limits for ducks, coots, mergansers, geese, crows and woodcock. There was little change to season framework and bag limits from the previous season other than adjustments for calendar dates. In the past four years, we have started the second segment of the coastal zone concurrently with the sea duck season. The rule differs and the coastal zone would start on November 6, 2020 to include a weekend that would otherwise be lost if the season start date was November 9, 2020. The sea duck season reflects the balance of desires from some sea duck hunters to go later into January and other to wishing to have the season end in mid-January.

A public hearing was held on March 10, 2020 with 6 members of the Waterfowl Council present, and 22 citizens in attendance (minutes attached). The Department presented the proposal and discussed the season frameworks and bag and possession limits. Only 3 members of the public offered testimony. One expressed interest in the woodcock season being extended later in the year, one discussed the coastal zone season and interest in having it extend to the end of the sea duck season, and the final comment was from a falconer who expressed concern over predation of ducks by bald eagles and did not want to see the gunning season extend any further into the month of January. No written comments were received.

There was one minor change from the original proposal. The original proposal indicated that brant season limits were subject to change pending aerial survey results in late January/early February 2020. After those results were received, the brant season dates were adjusted slightly in all three zones. North zone end date changed from Dec. 5, 2020 to Nov. 24, 2020; South zone, the second season end date from Dec. 26, 2020 to Dec. 15, 2020; Coastal zone, the second season start date from changed from Nov. 6, 2020 to Nov. 18, 2020. The remainder of the proposal was unchanged.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 11551, 11552  
**Chapter number/title:** Ch. 16, Hunting: 16.08, Moose Hunting  
**Filing number:** 2020-129  
**Effective date:** 6/2/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Moose permit areas are adjusted on an annual basis in response to moose population estimates and population goals in each Wildlife Management District (WMD). Department biologists use moose harvest levels, aerial surveys, and biological data to evaluate the status of moose within each WMD. This information is compared to publicly derived goals outlined in the moose management system to determine whether the population in an individual WMD should be stabilized, increased, or decreased. Moose permit recommendations are based on removal rates of antlered and cow moose that will achieve the population goal for a particular WMD, while also maintaining desired numbers of mature antlered moose for viewing by the general public.

**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 2020 season. The Department advertised a proposal on April 1, 2020 with a recommended total of 3,135 permits be issued in order to meet moose harvest objectives. This is an increase of 315 permits from 2019. Permits may be valid for either antlered moose, antlerless moose, or a moose of either sex, depending on the WMD and specific season in which the permit authorizes hunting. Moose permit allocations are adjusted on an annual basis in response to moose population estimates and population goals in each Wildlife Management District (WMD). Department biologists use moose harvest levels, aerial surveys, and biological data to evaluate the status of moose within each WMD. This information is compared to publicly derived goals outlined in the moose management system to determine whether the population in an individual WMD should be stabilized, increased, or decreased. Moose permit recommendations are based on removal rates of antlered and cow moose that will achieve the population goal for a particular WMD, while also maintaining desired numbers of mature antlered moose for viewing by the general public. The attached memorandum from the Department moose biologist Lee Kantar outlines the moose population status and recommended actions by WMD.

The slight increase in permits is focused on WMDs 1-6 which are within Maine's core moose range. Moose numbers in these WMDs are stable and can accommodate additional harvest without decline. These allocations are in concert with the goal of maintaining a healthy moose population while providing both hunting and viewing opportunities.

Due to the State of Emergency declared by Governor Mills, public hearings were not able to be held in person, so a virtual (Microsoft Teams) public hearing was scheduled for April 21, 2020. No members of the public requested to join the hearing, so the meeting was not launched. Three written comments were received on the proposal (attached). The comments were acknowledged and forwarded to the Commissioner's Advisory Council and staff for consideration. One comment was received in support of the proposal, and two comments were received in opposition. Of those opposed, one was not in favor of the lottery, felt there were few moose left and the lottery was only held for financial gain by the Department. The second comment in opposition discussed a petition for judicial review filed in the previous year and



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stated the Department's attempts to comply with law in the proposed rule were wholly inadequate. Much of the comment was not germane to the proposal but rather stating their views that the Department's proposal was not consistent with and in violation of Title 12, Section 10104 (Commissioner's rulemaking authority). The comment also stated that the rule was not consistent with Department management goals and that there was insufficient data to support the Department's estimate regarding the moose population. The Department disagrees with both comments in opposition as this rule is adopted and filed in compliance with existing statutory authorities and within the requirements of the Administrative Procedures Act (APA); and the attached memorandum from moose biologist Lee Kantar explains the reasons for the moose permit allocations based on the Department moose management goals and objectives. Finally, the Department's estimates of the moose population in the various WMD's is based on annual aerial surveys within the core range of Maine's moose population in order to provide a statistically reliable estimate of moose numbers. Aerial surveys use a peer-reviewed mark-recapture framework to estimate moose densities within specified WMDs. Since aerial surveys are conducted on rotation (~5 years), these estimates are used with a number of other empirically derived population parameters (e.g., reproduction, mortality, age distributions, sex-age ratios) within a population model to assess moose population dynamics thru time. This collection of data is used within the framework of a publicly derived management system to make annual recommendations on moose permit allocations.

The Commissioner recommended no changes to the original proposal. The Advisory Council met virtually via Microsoft Teams on May 20, 2020 and, of the 9 members participating, voted unanimously to adopt the proposal as presented.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 11402  
**Chapter number/title:** Ch. 16, Hunting: 16.07, Deer Hunting (Expanded Archery Areas)  
**Filing number:** 2020-162  
**Effective date:** 7/25/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The expanded archery program was created to promote archery hunting in areas where hunting opportunities were limited, often by local firearms discharge ordinances, and where this additional hunting pressure would not disrupt other hunting opportunities or pose a public safety risk. Expanded archery areas include Wildlife Management District (WMD) 29, a large portion of WMD 24, and nine smaller areas near or around Augusta, Bangor, Bucksport, Camden, Castine, Eliot, Lewiston, Portland, and Waterville. Authority to establish an expanded archery season was first granted by the Legislature in 1997, and this authority was expanded in subsequent years to allow for a longer season and later to increase the bag limit for expanded archery hunters. The Department periodically makes small additions and corrections to existing expanded archery boundaries as necessary.

All recommended adjustments to expanded archery boundaries and boundary language were made cooperatively with input from the MDIFW deer biologist and regional biologists and game wardens in the related areas. When considering additions to existing boundaries, the following were taken into consideration: Changes in road, house, and business development since the boundaries were created; firearm ordinance boundaries; known areas of high deer-human conflict such as limited land access, frequent nuisance deer complaints or requests for depredation permits, and high deer-vehicle collision rates; impacts on area habitat due to over-browsing by deer.

Existing expanded archery boundaries were reviewed by the MDIFW deer biologist as well as regional biologists and game wardens in the related areas. Additions to existing expanded archery areas were considered as well as adjustments to boundary language to reflect changed road or landmark names. The Department has made additions to four of the expanded archery areas: WMD 24 area, Augusta area, Camden area, and Lewiston area.

A virtual (Microsoft Teams) public hearing on the proposal was scheduled for June 17, 2020 and no members of the public indicated a desire to participate, so the hearing was not launched. The Department received one written comment (attached). The comment was specific to the proposed addition to the Lewiston area and expressed some concern that the landowners in the proposed expansion area weren't amendable to allowing hunters on their property. The Department reached out to local staff in the area including game wardens. Staff indicated the landowners did carefully screen hunters prior to giving permission on their property, but did allow hunting. They also indicated they felt the addition in the Lewiston area would help manage the deer situation locally.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 11701  
**Chapter number/title:** Ch. 16, Hunting: 16.10, Wild Turkey Hunting  
**Filing number:** 2020-163  
**Effective date:** 7/25/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The wild turkey population in Wildlife Management District (WMD) 6 has been stable to increasing over the past several years and can now sustain a small annual harvest during the fall season.

WMD 6 was first open to a spring wild turkey hunting season in the spring of 2015. Harvest data from 2015 to 2019 shows a stable trend, with annual fluctuations characteristic of the natural cycle of wild turkey populations. A Citizen Science on-line survey conducted during winter 2019/20 confirmed that wild turkeys are well established in WMD 6. Observations were recorded in 17 towns, all within the area considered suitable wild turkey habitat, and we estimate a minimum winter population size of more than 1,000 wild turkeys in WMD 6. These observations were in winter, when some proportion of the previous fall population had already been lost to predation and other natural causes of mortality; the population during the fall hunting season will be higher.

Satellite flocks and small groups of turkeys have been observed deep into the North Maine Woods to the west and in Madawaska and St. Agatha to the north, suggesting dispersal and expansion beyond WMD 6, characteristic of a growing wild turkey population. The Department has also received some wild turkey nuisance complaints in WMD 6. This is characteristic of a healthy population as experienced in Southern and Central Maine, where the wild turkey population is considered abundant.

**Basis statement:**

WMD 6 was first open to a spring wild turkey hunting season in the spring of 2015. Harvest data from 2015 to 2019 shows a stable trend, with annual fluctuations characteristic of the natural cycle of wild turkey populations. A Citizen Science on-line survey conducted during winter 2019/20 confirmed that wild turkeys are well established in WMD 6. Observations were recorded in 17 towns, all within the area considered suitable wild turkey habitat, and we estimate a minimum winter population size of more than 1,000 wild turkeys in WMD 6. These observations were in winter, when some proportion of the previous fall population had already been lost to predation and other natural causes of mortality; the population during the fall hunting season will be higher. Satellite flocks and small groups of turkeys have been observed deep into the North Maine Woods to the west and in Madawaska and St. Agatha to the north, suggesting dispersal and expansion beyond WMD 6, characteristic of a growing wild turkey population. The Department has also received some wild turkey nuisance complaints in WMD 6. This is characteristic of a healthy population as experienced in Southern and Central Maine, where the wild turkey population is considered abundant.

The Department used several sources of information to evaluate the status of turkeys in WMD 6, including previous spring harvest levels in WMD 6 and adjacent WMDs, a citizen science survey to document minimum winter population size, and nuisance complaints from the public. By establishing a bag limit of one wild turkey in WMD 6, the proposed rule also aligns with the Department's Big Game Management Plan, which recommends maintaining a

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conservative fall hunting season framework in northern, eastern, and western Maine to allow turkey population growth.

WMD 6 will be opened to a fall turkey season with a one turkey of either sex bag limit. All other rules for fall wild turkey hunting will apply. A fall hunting season is a valuable tool to keep wild turkeys at a level that balances a huntable population with human tolerance.

No public hearing was held on the proposal and none was requested. The Department received one written comment. The comment was quite thorough, and the points raised were carefully reviewed. The comment stated they thought the fall season in WMD 6 was being opened to mitigate a nuisance issue in Houlton. There was a bit of a misconception the proposal was focused on addressing nuisance issues in WMD 6, and although the Department does consider nuisance complaints when making a recommendation to open a turkey season such as this one, they were not put in place specifically to address those issues, but a source of data we considered. The numbers the Department used to inform the proposal were from the past winter. The public comment also questioned whether the numbers were from two winters ago when the population statewide was higher. The Department agrees that statewide we were seeing fewer birds in the state as compared to two summers ago and that was typical for turkeys. Turkey populations can fluctuate dramatically from year to year, and to address that, the Department looks at a longer period of data. The proposal was informed by a long-term trend in increasing numbers of wild turkeys in WMD 6 as well as an expansion of their range in that part of the state. Based on all those factors, the Department was confident that opening WMD 6 to a limited fall hunt with a one turkey bag limit was appropriate and did not recommend any changes to the proposal based on the comment.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §10104  
**Chapter number/title:** Ch. 16, Hunting  
**Filing number:** 2020-180  
**Effective date:** 8/24/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule amendments are necessary to implement language changes based on three individual laws that were passed during the 129<sup>th</sup> Legislature. The laws affected department rules related to use of crossbows during the regular archery only deer hunting season, fall wild turkey hunting season and the supervision of junior hunters. The definition of an “antlerless moose” was also enacted.

**Basis statement:**

These rule amendments are necessary to implement language changes based on three individual laws that were passed during the 129<sup>th</sup> Legislature. Statutory changes were reviewed, and these necessary language amendments were made in rule to be consistent with the law as follows:

Public Law 2019 ch. 355 went into effect by emergency on June 18, 2019. For consistent definitions between the law and rule, the rule language within 16.08 defining an antlerless moose was amended.

Public Law 2020 ch. 639 amended the name of a person who supervises a junior hunter from an “adult supervisor” to a “junior hunter supervisor.” These amendments were made throughout the rule chapter anytime youth hunt days were described for deer, bear, spring and fall turkey and for migratory waterfowl hunting.

Public Law 2020 ch. 637 and Public Law 2019 ch. 98 made changes to certain uses of crossbow for deer hunting for years 2020-2022 and the amendments to the rules are necessary to provide consistency between law and rule. A description on the allowance for use of a crossbow during the Regular Archery-Only Season in October for deer hunting has been included along with language defining how hunters under the age of 65 can hunt and how they may harvest an antlerless deer with their permit and also explains how hunters age 65 and over and hunters with a special permanent disability permit can hunt for deer with a crossbow and have the ability to harvest a deer of either-sex without an antlerless deer permit. Additionally, crossbow becomes an added method to turkey hunt in the fall season.

No public hearing was held on the proposal and none was requested. The Department received two written comments on the proposal. One comment pointed out a typographical error that was corrected, and the second comment was opposed to the amended definition of an antlerless moose. The law change required the rule amendment for consistency and the change was implemented to ensure hunters with antlerless moose permits were indeed harvesting cow moose and young bulls were not being targeted.

The Commissioner moved forward with the original proposal and the Advisory Council gave their consent on August 12, 2020 and of the nine (9) members present, voted unanimously to adopt the proposal as presented.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 11152, 11401  
**Chapter number/title:** Ch. 16, Hunting: 16.07(4.A.)(6.), Deer Hunting  
**Filing number:** 2020-181  
**Effective date:** 8/24/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Any-deer Permits (ADP) are adjusted by MDIFW on an annual basis by department biologists who consider deer harvest levels, biological metrics and indices, and estimates of winter severity when evaluating the status of the deer population within each wildlife management district (WMD). ADP recommendations are based on removal rates of adult does that will stabilize, increase, or decrease deer densities. In addition to annual ADP recommendations, we are also recommending issuance of bonus antlerless deer permits in two subunits. These permits will allow hunters additional opportunity to harvest deer in areas experiencing elevated levels of Lyme disease, deer-vehicle collisions, and public complaints about deer.

**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. ADP recommendations are based on removal rates of adult does that will stabilize, increase, or decrease deer densities, according to the publicly derived goals in the deer management system.

For 2020, the Department will issue a total of 109,990 ADP to be issued across 26 WMDs, including 370 bonus antlerless permits in two deer management subunits, to meet our doe harvest objective of 13,176 does. This is an increase in permits of just under 62% from 2019 (68,145 ADP). WMDs 1, 4, and 5 will be open to buck harvest only as they remain under objective, are often subject to severe winters, have low growth potential as seen in low doe:buck ratios, and do not have prominent areas of deer-human conflict. In WMDs 2, 3, 8-11, 14, 19, 27 and 28, we elected to issue a small number of ADPs (<100). The limited allocations of permits will allow hunters to continue to address localized issues with vehicle collisions, limit deer impacts to limited overwintering habitats, and enjoy additional harvest opportunities in these areas. WMDs 6, 7, 12, 13, and 18 will have increased allocations between 100 and 360 ADP, which is largely a product of lower estimated winter mortality rates leaving some additional room for doe removal. Large increases in permits were recommended for WMDs 15-17 and 20-26. These WMDs represent the most productive deer range in Maine. In addition to being subjected to mild winter conditions, it is increasingly challenging to achieve desired levels of doe removal in these districts. The Department continues to issue additional bonus permits in two deer management subunits in WMDs 25 and 26.

A public hearing on the proposal was held on June 15<sup>th</sup> and there was one participant at the hearing (minutes attached). Testimony was given in support of the any-deer permit numbers. The comment deadline closed on June 25<sup>th</sup> and two written comments were received. One of the comments was generally opposed to the deer management framework and really was not germane to the proposal but more addressing the way in which we managed deer to cope with things such as Lyme disease, deer/vehicle collisions and nuisance complaints. The second comment was from a member of the Commissioner's Advisory Council, Mr. Cowperthwaite representing Aroostook County. The comment proposed a modest increase

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in permit numbers in WMDs 1, 2, 3, 5, and 6 based on a meeting he had with members of the Aroostook County Conservation Association. The association held a banquet each year to raise thousands of dollars to buy food for the deer and due to the coronavirus, they were unable to do that. He had also met with the Aroostook chapter of the Maine Trappers Association and again, their concern was with the numbers of deer and starvation. Residents of Allagash had voiced the same. It was an important issue for Aroostook county residents, and he recommended an increase in the number of permits by 25 in the WMDs within their communities and 50 in WMD 6. It was only a little over 100 permits, there were 110,000 any-deer permits statewide, so he didn't feel it was a substantial request.

After reviewing the public comments and discussion with staff the Commissioner was comfortable moving forward with the proposed changes. It was a relatively minor increase from the original proposal and fit within the variation in the biological data we collected and used to inform permit recommendations except for WMD 5. Our management system and the biological and weather data we collected indicated no permits in WMD 5 for 2020 based on the status of the deer population in that district. Based on that, the Department recommended amending permit numbers from the original proposal in the following WMDs: WMD 2, 25 permits to 50; WMD 3, 50 permits to 75; and WMD 6, 200 permits to 250 for a total of 100 additional permits.

The Advisory Council gave their consent on August 12, 2020 and of the nine (9) members present, voted unanimously to adopt the proposal as amended.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12251  
**Chapter number/title:** Ch. 17, Trapping  
**Filing number:** 2020-182  
**Effective date:** 8/24/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department regularly adjusts furbearer hunting and trapping regulations in response to emerging scientific information, changes in hunter and trapper participation, and biological data. Several minor changes were adopted to clarify or simplify existing trapping rules. As in previous years, the Department closed certain areas to beaver trapping in response to requests from landowners. Other changes included increasing the fisher bag limit from 10 to 25 fisher/trapper/year, to be consistent with the marten bag limit, remove the temporary transportation tags required for marten and fisher and to amend the requirement of completing annual surveys to trappers 16 years and older. There were approximately 4% of kids that had lifetime trapping licenses and some of those were infants so it was not reasonable for them to be completing the trapper surveys. A definition for “visible attractor” was adopted as there had previously been no definition for visible attractor measures that were put in place to reduce the incidental take of lynx and other non-target species in traps. Muskrat trap placement was clarified, and modifications were made to the rule to allow muskrats to be kept if caught incidentally while trapping for beaver and otter was added to the exemption to incidental catch requirements when trapping for muskrat.

These changes will reduce unnecessary complexity in our trapping rules, improve the clarity of rules for the public and for law enforcement personnel, provide additional opportunity for harvest where biologically appropriate, and help ensure the continued conservation of furbearer species in Maine.

A virtual public hearing was held via Microsoft TEAMS on the proposal on June 16, 2020 (minutes attached). One member of the public participated and provided testimony. The individual was representing the Maine Trappers Association (MTA) and had also submitted written testimony. The MTA had concerns with the portion of the proposal defining “visible attractor,” in particular with regard to flagging which many trappers liked to use to mark the location of their trap. The public comment period ended June 26, 2020 and two written comments were received. The first comment focused on the fisher bag limit portion of the proposal and expressed general support for the increase and support for the concept that fisher populations seemed to be doing very well statewide and seemed to have increased in the north in particular. The comment questioned whether or not a quota system might be more effective. The Department had discussed that approach in the past. There would be a statewide or regional harvest limit for fisher and once that limit was reached, the season would close. That was a viable harvest management tool that was appropriate in some circumstances for some species. The challenge was that would require trappers to register their fisher throughout the season as they were being harvested so we could monitor that level of harvest in relation to the quota established. It would also require trappers to pay close attention to when that season might be closed. If it were to close they would have to pull their



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traps immediately. From a trapper satisfaction and logistical perspective, the Department didn't view that as a good approach in this scenario.

The second written comment we received was from the Maine Trapper's Association (MTA) which was generally supportive of the proposal. They did raise some questions about the new definition of visible attractor, which they also commented on during the public hearing around the use of flagging to mark trap locations. The written comment included additional concerns with defining the use of vegetable matter and that it be clarified that the use of vegetable matter was permissible in the visible attractors section of the rule.

The Commissioner reviewed the comments and testimony and discussed with staff and did make a minor addition to the proposal in Section 17.03 Definitions, (17) Visible Attractor to include that fruits or vegetables used for muskrat trapping were not considered a visible attractor. The section was further amended to specify that small pieces of flagging could be used to mark trap site locations. The remainder of the proposal was unchanged. The Commissioner's Advisory Council met on August 12, 2020 and of the nine (9) members participating voted unanimously to adopt the proposal as amended.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12851  
**Chapter number/title:** Ch. 24, Licensed Guides  
**Filing number:** 2020-164  
**Effective date:** 7/25/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The rule is the result of more than a year's review of ch. 24 rules and the necessity for updates resulting from enacted legislation requiring the need for a background check to be completed before a person could apply for or renew their guide license. The rule contains language adjustments, updates to qualifications for guide license, enhanced testing process and an expansion of the standards of competency section to include ethics. The updated rule will ensure the highest standards for issuing a guide license to insure the public's trust when hiring a Maine guide.

Specific changes to the rule include updates due to statutory requirements for criminal background check completion prior to applying and renewing; expansion of standards of competency and ethics; updates to the application and testing process to allow a person to complete the oral and written exams the same day, including allowing a person to complete testing for all three portions of the oral exam even if they fail any one of them; clarification that for all classifications a guide can conduct over-night camping trips in conjunction with the activities their license classification allows them to guide for; when applying, a higher standard of "field experience" will be required by verifying a minimum of 100 hours within the past 4 years of field experience, training, job shadowing and/or apprenticeship. Anyone testing for hunting or fishing classifications also have the ability to test for a recreational classification by paying the \$100 exam fee for each classification beginning January 1, 2021. Education and outreach materials will be posted on the Department's website under the guiding section and applicants will be informed of new rules. Guide examiners will be educated on the new rule and options for testing more than one classification in a day.

No public hearing was held, and the Department received four written comments on the proposal. A summary of comments and responses is attached.

The Commissioner supported modifying the proposal based on public comment that was received from the Maine Professional Guides Association. The comment suggested the proposed language in the Standards of Competency/Ethics section was too broad and should reflect current statutory wording. The rule language was amended in section 24.08 Standards of Competency/Ethics (A.)(5.) as follows: "Fully understand and abide by all state and federal laws and rules involving the activities in the classification(s) for which the Guide is licensed and report all fish and wildlife related or other violations that a client engages in, accordance with 12 M.R.S. §12858 to the appropriate law enforcement dispatch center." There were no further changes recommended to the original proposed rule.

**Fiscal impact of rule:**

No fiscal impact anticipated.



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**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  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. I Section 4**, Telehealth Services  
**Filing number:** **2020-055**  
**Effective date:** 3/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This emergency rulemaking will remove the *MaineCare Benefits Manual* (MBM), ch. I §4, “Telehealth Services”, blanket prohibition against providers utilizing telehealth to deliver services under the MBM, ch. II §80, “Pharmacy Services”. Pursuant to 5 MRS §8054, the Department has determined that immediate adoption of this rule is necessary to avoid a potentially severe and immediate threat to public health, safety or general welfare. The Department’s findings of emergency are set forth in detail in the Emergency Basis Statement. Maine is facing a substantial public health threat posed by the global spread of the 2019 Novel Coronavirus (COVID-19). On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic. As a preemptive action by the Department, Pharmacy Services will be available via telehealth when medically necessary and appropriate.

This emergency rule change will take effect upon adoption and will be in effect for 90 days (5 MRS §8054). The Department is concurrently engaging in the routine technical rulemaking process for Section 4 to prevent a lapse in the rule and added services.

**Basis statement:**

Coronaviruses are a large family of viruses that are common in people and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people. Late in 2019, a new such virus appeared, initially on the Chinese mainland, but rapidly spreading elsewhere. This virus, typically referred to as “Novel Coronavirus,” but officially named “SARS-CoV-2,” has led to the development in humans of a new disease, “coronavirus disease 2019,” typically referred to as “COVID-19.” The precise magnitude of the risk presented by this virus in terms of its communicability and range of severity is not yet determined, but the risk is clearly substantial.

The United States Centers for Disease Control and Prevention (CDC) is still investigating how the virus spreads. The CDC reports that the COVID-19 virus is spread mainly by person-to-person contact between people who are within six feet of one another, through respiratory droplets produced when an infected person coughs or sneezes. The CDC has advised that all symptomatic community members remain home to prevent further spread of the virus. More generally, public health authorities are advising against unnecessary interactions between members of the public, especially those who might be members of vulnerable populations, such as older persons or those with certain preexisting medical conditions. On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic.

The Telehealth Services rule provides that a face to face encounter is not required prior to the provision of covered services via telehealth. This emergency rulemaking will remove the *MaineCare Benefits Manual* (MBM), ch. I §4, “Telehealth Services”, prohibition against providers utilizing telehealth to deliver services under the MBM, ch. II §80, “Pharmacy Services”. Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is

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necessary to implement these changes as soon as possible to aid in the reduction of the spread of the Novel Coronavirus, while continuing to provide MaineCare services to some of Maine's most vulnerable residents. This emergency rule permits the provision of all Pharmacy Services via Telehealth, as medically necessary and appropriate.

Modification of the usual rulemaking procedures under the *Maine Administrative Procedure Act* is necessary to ensure the public health, safety and welfare of Maine residents. Emergency rules are effective for ninety (90) days. The Department shall promptly follow this emergency rulemaking with proposed rulemaking.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

This rule is estimated to be cost neutral.

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**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; 24-A MRS §4136  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. I Section 4**, Telehealth Services  
**Filing number:** **2020-136**  
**Effective date:** 6/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This adopted rule implements increased access to all pharmacy services, and particularly substance use disorder (SUD) services, through the removal of the blanket prohibition against the provision of Pharmacy Services (Section 80) via telehealth. On March 16, 2020, the Department implemented these changes on an emergency basis due to the COVID-19 health threat, in an effort to limit face-to-face contact, expedite these services to members, and mitigate disease transmission. The Department now seeks to make these changes permanent, in part because they will ensure delivery of SUD services more quickly and broadly to members, in hopes of helping to stem the opioid crisis. Additionally, the changes will be generally preemptive against any future spread of communicable disease threat or outbreak by decreasing in-person contact for pharmacy services, as medically and situationally necessitated.

Additionally, this rule removed two prohibitions within the Telehealth rule, and adds five new definitions to the rule, including Consultative Physician, Established Patient, Requesting Physician, Specialist, and Treating Provider.

The adopted provisions expand Covered Services by adding Store-and-Forward, Virtual Check-Ins, Remote Consultations, and Telephone Evaluation & Management. Store and Forward and Remote Consultation services permit Health Care Providers to, for example, get reimbursed for communications regarding a member's treatment and diagnoses. This action aligns the MaineCare rule with recent changes to 24-A M.R.S. § 4316, requiring private insurers to more broadly cover services through telehealth. As part of Store-and-Forward modalities, the Department has also added two additional procedure codes associated with Remote Consultation Between a Treating Provider and Specialist. Both new added services permit the transmission of member health information between two or more providers and/or allow collaboration between a primary provider and specialist using a virtual platform. Additionally, the two new remote consultation codes allow for the reimbursement of the requesting and consulting physicians, a departure from reimbursement for the other interprofessional consultation codes extant in policy.

Virtual Check-Ins have been added to Covered Services to align MaineCare policy with recently expanded Medicare coverage of telehealth. The addition of Virtual Check-In is intended to allow providers to communicate with members about their health status in between office visits, and to determine medical necessity for future in-office visits. Telephone Evaluation & Management permits a provider to more broadly consult with a member via telephone.

Additionally, the Department is permanently adding codes to the reimbursement section that were opened initially through the COVID-19 Public Health Emergency Services

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rule (the “COVID Rule”), 10-144 C.M.R. Ch. 101, Ch. I, Sec. 5. The COVID Rule shall be effective temporarily, to assist members and providers in specific ways during the COVID crisis, and then the Department intends to repeal the COVID Rule. The COVID Rule makes various other changes to the Telehealth rule, including:

- (i) allows waiver of the requirement in 4.04-1(2) that the covered service delivered by Interactive Telehealth be of comparable quality to what it would be if delivered in person, subject to a new comparability review process and prior approval by the Department;
- (ii) for 4.04-3 (Telephonic Services) – waives requirement that Interactive Telehealth Services be unavailable before one may utilize Telephonic Services; and
- (iii) waives requirement in 4.06-2(B) that the provider do member education and obtain written consent from the member prior to provision of services via Telehealth.

The requirement in this adopted rule for the provision of member education and procurement of informed written consent before the provision of Virtual Check In, Store and Forward, Remote Consultation, and Telephone Evaluation & Management services conflicts with the COVID Rule. Where the COVID Rule and a separate MaineCare rule conflict, the COVID rule supersedes and shall apply. See COVID Rule, Sec. 5.01. Thus, per the COVID Rule, **no education/written informed consent is required for these new Covered Services while the COVID Rule is in effect.**

The Department is seeking and anticipates receiving approval from the Centers for Medicare and Medicaid Services for these changes.

As a result of review by the Office of the Attorney General, the Department finds that changes are necessary in the final rule. The Department is adding a covered service description and additional clarifying language associated with Telephonic Evaluation & Management. The Department also made two clerical corrections to billing codes so that they are consistent with the codes used in the COVID-19 Emergency Rule.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will have minimal to no fiscal impact.

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**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, 8073  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. I Section 5**, COVID-19 Public Health Emergency Services (*New*)  
**Filing number:** **2020-057**  
**Effective date:** 3/20/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To expedite and improve access to medical care for MaineCare members due to the 2019 Novel Coronavirus (COVID-19). On March 11, 2020, the World Health organization declared COVID-19 a worldwide pandemic. On March 15, 2020, Governor Janet T. Mills declared a state of civil emergency in Maine. Please see the Emergency Basis Statement for more detail regarding the bases for this emergency rulemaking.

**Basis statement:**

Coronaviruses are a large family of viruses that are common in people and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people. Late in 2019, a new such virus appeared, initially on the Chinese mainland, but rapidly spreading elsewhere. This virus, typically referred to as “Novel Coronavirus,” but officially named “SARS-CoV-2,” has led to the development in humans of a new disease, “coronavirus disease 2019,” typically referred to as “COVID-19.” The precise magnitude of the risk presented by this virus in terms of its communicability and range of severity is not yet determined, but the risk is clearly substantial.

The United States Centers for Disease Control and Prevention (CDC) is still investigating how the virus spreads. The CDC reports that the COVID-19 virus is spread mainly by person-to-person contact between people who are within six feet of one another, through respiratory droplets produced when an infected person coughs or sneezes. The CDC has advised that all symptomatic community members remain home to prevent further spread of the virus. More generally, public health authorities are advising against unnecessary interactions between members of the public, especially those who might be members of vulnerable populations, such as older persons or those with certain preexisting medical conditions. On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic.

This emergency rulemaking institutes measures, effective immediately, to expedite and improve access to medical care for MaineCare members in light of COVID-19. Pursuant to 5 MRS §§ 8054 and 8073, the Department finds that emergency rulemaking is necessary to implement these changes as soon as possible to aid in the reduction of the spread of the Novel Coronavirus, while continuing to provide MaineCare services to some of Maine’s most vulnerable residents.

This is a single new section of the *MaineCare Benefits Manual* that implements emergency changes for multiple types of MaineCare Services. The following sections of MaineCare policy are affected by this rulemaking: Ch. I Section 1 (“General Administrative Policies and Procedures”); Ch. I Section 4 (“Telehealth Services”); Ch. II and III Section 31 (“Federally Qualified Health Center Services”); Ch. II and III Section 40 (“Home Health Services”); Ch. II and III Section 45 (“Hospital Services”); Ch. II Section 55 (“Laboratory Services”); Ch. II Section 60 (“Medical Supplies and Durable Medical Equipment”); Ch. II and



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III Section 65 (“Behavioral Health Services”); Ch. II Section 80 (“Pharmacy Services”); Ch. II Section 90 (“Physician Services”); Ch. II and III Section 96 (“Private Duty Nursing and Personal Care Services”); Ch. II Section 101 (“Medical Imaging”); and Ch. II and III Section 103 (“Rural Health Clinic Services”).

This emergency rulemaking implements the following changes:

1. **Co Payments:** The Department is waiving some co-payments for MaineCare services for all MaineCare members. The co-payment waivers include pharmacy, clinical visits, medical imaging, laboratory services, behavioral health services, medical supplies and durable medical equipment, private duty nursing and home health services. Should COVID-19 specific treatments and/or vaccines become available during the duration of this rule, co-payments will be waived for those services as well.
2. **Pharmacy:** The Department is altering some of the MBM, Section 80, Pharmacy Services, requirements in order to expedite and improve access to prescriptions. Restrictions are lifted for asthma and immune-related prescriptions. Prior Authorizations for COVID-19 treatments and/or vaccines, should they come available, are waived. Early refills of prescriptions are allowed, and the physical assessment requirements for Buprenorphine and Buprenorphine Combination products for SUD are waived.
3. **Durable Medical Equipment:** Prior Authorization requirements for certain durable medical equipment are being extended and early refills allowed for individuals with COVID-19, in self quarantine who may have COVID-19, or in a high-risk category for developing complications from COVID-19.
4. **Home Health Services.** Home Health Services document submission requirements are being extended for Plans of Care submissions.
5. **Telehealth:** The Department is waiving the advance written notice/consent for telehealth services, waiving the comparability requirement for services with specific approval by the Department, and allowing the provision of telephone-only evaluation and management services for MaineCare members.

In the event of conflict between the COVID-19 Public Health Emergency Services rule and any other MaineCare rule, the terms of this rule supersede other rules and shall apply.

**The Department shall seek and anticipates receiving approval of those changes from the Centers for Medicare and Medicaid Services (CMS) retroactive to March 18, 2020.**

Except for the changes affecting MBM, Ch. II and III Section 40, “Home Health Services”, these emergency rule changes shall be effective for ninety (90) days, per 5 MRS §8054. MBM Ch. II and III Section 40, “Home Health Services”, are major substantive rules, thus, if CMS approves, the emergency rule changes affecting Section 40 shall be effective for up to one year pursuant to 5 MRS §8073.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$1,976,845.00 in SFY 2020, which includes \$607,035.00 in state dollars and \$1,369,810.00 in federal dollars, and \$7,907,380.00 in SFY 2021, which includes \$2,430,813.00 in state dollars and \$5,476,567.00 in federal dollars.

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**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, 8073  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. I Section 5**, COVID-19 Public Health Emergency Services  
**Filing number:** **2020-116**  
**Effective date:** 5/13/2020  
**Type of rule:** Routine Technical (except section 506, major substantive)  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To expedite and improve access to medical care for MaineCare members due to the 2019 Novel Coronavirus (COVID-19). On March 11, 2020, the World Health organization declared COVID-19 a worldwide pandemic. On March 15, 2020, Governor Janet T. Mills declared a state of civil emergency in Maine.

**Basis statement:**

Pursuant to 5 MRS §§ 8054 and 8073, the Department finds that further emergency rulemaking is necessary to implement these additional changes to the COVID-19 rule as soon as possible to further aid in the reduction of the spread of the Novel Coronavirus, while continuing to provide MaineCare services to some of Maine's most vulnerable residents. The COVID-19 rule impacts the following sections of MaineCare policy: Chapter 1, Section 1 (General Administrative Policies and Procedures); Chapter I, Section 4 (Telehealth Services); Chapter II, Section 12 (Consumer-Directed Attendant Services); Chapter II, Section 17 (Community Support Services); Chapters II and III, Section 31 (Federally Qualified Health Center Services); Chapters II and III, Section 40 (Home Health Services); Chapters II and III, Section 45 (Hospital Services); Chapter II, Section 55 (Laboratory Services); Chapter II, Section 60 (Medical Supplies and Durable Medical Equipment); Chapter II, Section 67 (Nursing Facility Services); Chapters II and III, Section 94 (Early and Periodic Screening, Diagnosis and Treatment Services); Chapters II and III, Section 96 (Private Duty Nursing and Personal Care Services); Chapter III, Section 97 (Private Non-Medical Institution Services); Chapter X, Section 3 (Katie Beckett Benefit); and Chapter X, Section 1 (Benefit for People Living with HIV/AIDS).

In the event of conflict between the COVID-19 Rule and any other MaineCare rule, the terms of this rule supersede other rules and shall apply.

In particular, this emergency rulemaking implements the following changes:

1. **Co Payments:** The Department is waiving some co-payments for MaineCare services for all MaineCare members. This Second COVID-19 Rule adds co-payment waivers including: Section 96, private duty nursing and personal care services, Section 12, allowances for consumer directed attendant services, and Ch. X, Sec. 1, benefits for people living with HIV/AIDS.
2. **Waiver of Premiums:** The Department is waiving all enrollment fees, premiums, and similar charges for all beneficiaries.
3. **Durable Medical Equipment:** If CMS approves, the Department is authorizing Advanced Practice Providers to prescribe durable medical equipment and allowing audiologist orders to justify medical necessity of hearing aids when all other criteria are met. The Department may implement these changes permanently through separate rulemaking in the MBM, Chs. II and III, Section 60.
4. **Home Health Services.** The Department is authorizing Advanced Practice Providers as qualified providers to order and recertify plans of care. The Department may implement these changes permanently through separate rulemaking in the MBM, Chs. II and III, Section 40.

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5. **Telehealth:** The Department is allowing the provision of telephone-only evaluation and management services for MaineCare members. As noted specifically in the Second COVID-19 Rule, the Department is implementing some of these telehealth services permanently through separate rulemaking in the MBM, Ch. I, Section 4.
6. **Early and Periodic Screening, Diagnosis and Treatment:** If CMS approves, the Department is allowing for one additional health assessment visit per member within a year following an initial assessment via Telehealth under Bright Futures Health Assessment Visits.
7. **Hospital Services:** The Department is allocating a special supplemental pool in the amount of ten million dollars (\$10,000,000) for COVID-19 among the Acute Care Non-Critical Access hospitals and Critical Access hospitals. The special supplemental pool payments shall be allocated proportional to the 2016 MMIS base date distribution of MaineCare payment for inpatient and outpatient services, not to exceed the total supplemental pool amount and not to exceed allowable aggregate upper payment limits.
8. **Private Non-Medical Institution Services:** The Department is increasing reimbursement uniformly for Appendix B substance abuse treatment facilities by 23.9% effective 3/1/2020 to 5/31/2020. This increased reimbursement may not duplicate any other reimbursement received for COVID-19, and the Department may cease paying the rate increase to any provider it determines has received such funding after providing advance notice.
9. **Uninsured Individuals:** As authorized by the Disaster SPA and the Families First Coronavirus Response Act (FFCRA) H.R. 6201, 116 Cong. (2019-2020), P.L. No. 116-127, effective retroactive to March 18, 2020, individuals who meet the eligibility requirements set forth in the MaineCare Eligibility Manual, 10-144 C.M.R. Ch. 332 shall receive coverage for testing and diagnosis of COVID-19.
10. **Community Support Services:** Members who require annual verification for determination of eligibility shall retain eligibility through previously-rendered diagnoses and clinical judgment. Retroactive to April 15, 2020, for community integration services only, providers must verify that a member meets specific eligibility requirements within sixty days of the start date of services.
11. **Private Duty Nursing and Personal Care Services:** The period of time for an individual without the required training to enroll in a certified training program for Personal Support Specialists is extended from sixty days to one-hundred twenty days from date of hire. The period of time in which an individual must complete and pass the training requirements is extended from nine months to twelve months from date of hire.
12. **Nursing Facility Services:** The federal Preadmission Screening and Resident Review (PASRR) requirements for nursing facilities are being waived for thirty days. All new admissions can be treated like exempted hospital discharges. After thirty days, new admissions with mental illness or intellectual disability should receive a PASRR as soon as resources become available.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$12,478,433.00 in SFY 2020, which includes \$3,643,997.00 in state dollars and \$8,834,436.00 in federal dollars; and \$7,887,262.00 in SFY 2021, which includes \$2,226,915.00 in state dollars and \$5,660,915.00 in federal dollars. These sums include changes made in the first COVID emergency rule filed on March 20, 2020 combined with all additional changes contained within this rule.

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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(8), 3173; 5 MRS §8054; PL 2019 ch. 343; Resolves 2019 ch. 110; PL 2019 ch. 616  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III §65**, Behavioral Health Services  
**Filing number:** **2020-121**  
**Effective date:** 5/21/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The Department of Health and Human Services (Department) adopts the following emergency rule changes in 10-144 CMR ch. 101, *MaineCare Benefits Manual*, ch. II and III section 65, “Behavioral Health Services”.

In ch. III, the Department is increasing the rate of reimbursement for Medication Assisted Treatment with Methadone (MAT) retroactive to July 1, 2019. Pursuant to PL 2019 ch. 343, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2019, June 30, 2020 and June 30, 2021*, (effective June 17, 2019), the Legislature increased funding for the weekly reimbursement rate for MAT services for the FY2020 and FY2021 state budgets. In light of the state’s ongoing opioid crisis, the Department finds that the immediate adoption of the MAT rate increase is necessary to avoid an immediate threat to public health, safety, or general welfare under 5 MRS §8054. The emergency rate increase benefits both providers and members and will further support the delivery of these critical services to those in need.

The Department is seeking and anticipates approval from the Centers for Medicare and Medicaid Services (CMS) for the MAT rate increase. The Department published a Notice of MaineCare Reimbursement Methodology Change on June 28, 2019 notifying providers of this increase and is awaiting approval of a state plan amendment. Pending that approval, the Department will reimburse MAT services at the increased rate retroactive to July 1, 2019.

Additionally, this rulemaking will increase the rates of reimbursement in ch. III for Functional Family Therapy (FFT), Multisystemic Therapy (MST), Multisystemic Therapy for Problem Sexualized Behaviors (MST-PSB) by 20% effective January 1, 2020 in accordance with Resolves 2019, Ch. 110, *Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children* (effective January 12, 2020). In approving this legislation (which became law without the Governor’s signature), the Legislature determined that an immediate effective date was necessary given the rates had “not been adjusted in more than 8 years” and the rates were “insufficient to enable some providers to continue to provide services.” The Department agrees with and incorporates these findings in support of this emergency rulemaking under 5 MRS §8054.

The Department is seeking and anticipates CMS approval for the 20% rate increases for FFT, MST, and MST-PSB services. The Department published a Notice of MaineCare Reimbursement Methodology Change on June 28, 2019 of the intended 20% rate increases with the expectation that the Legislature would approve the increases effective July 1, 2019. The Department believes this notice is sufficient despite the legislation not taking effect until January 12, 2020. Pending CMS approval, the Department will reimburse FFT, MST, and MST-PSB services at increased rates retroactive to January 1, 2020.

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Additionally, following the completion of the rate study directed by Resolves 2019 ch. 110 and completed by Burns and Associates, the Department has developed new increased rates for MST, MST-PSB, and FFT. The additional funding has been approved for the FY2021 state budget pursuant to PL 2019 ch. 616, *An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021* (effective March 18, 2020). Through the rate study process and in line with the Legislature's directive in the Resolve, the Department has made the determination to switch reimbursement from quarter hour billing to a weekly case rate to reflect the requirements for the evidence-based models. Concurrent with these rate changes in ch. III, in ch. II the Department has ended Collateral Contacts for MST, MST-PSB, and FFT as these services have been incorporated into the new weekly case rate. The Department has also adopted minimum contact standards for providers to provide guidance to providers accessing this new weekly case rate. In ch. III, the Department has deleted the prior quarter hour codes and added in the new weekly codes and rates. In response to financial challenges and civil emergency created by the COVID-19 pandemic, the Department has advanced the increased rates from the anticipated July 1, 2020 start date retroactively to May 1, 2020, in order to provide financial relief, to support stability in the workforce, and to increase access to members in need. Because of this, the Department has determined emergency rulemaking is necessary to support these providers and members receiving these services under 5 MRS §8054

The Department published a Notice of MaineCare Reimbursement Methodology Change on April 30, 2020 of the intended rate increases and intends to file a State Plan Amendment within the quarter. Pending CMS approval, the Department will reimburse MST, MST-PSB, and FFT at increased weekly rates retroactive to May 1, 2020.

Finally, PL 2019 ch. 616 also included funding for the Department to increase rates for certain services effective July 1, 2020. In response to the COVID-19 emergency and hardships created during this period of civil emergency, the Department has made the decision to advance these rate increases to be effective retroactively to April 1, 2020. The rate changes include an increase for physicians delivering medication management, and an increase for Behavioral Health Professionals providing Home and Community-based Treatment (HCT) services. In order for physicians to access the increased rate of reimbursement, they will be required to use the AF modifier on their claims. The Department has determined emergency rulemaking is necessary to support these providers and members receiving these services under 5 MRS §8054.

The Department published a Notice of MaineCare Reimbursement Methodology Change on March 31, 2020 of the intended rate increases and intends to file a State Plan Amendment within the quarter. Pending CMS approval, the Department will reimburse Behavioral Health Professionals delivering HCT and physicians delivering Medication Management at increased rates retroactive to April 1, 2020.

This emergency rulemaking will take effect upon filing with the Secretary of State and will remain in effect for ninety days. 5 MRS §§ 8052(6), 8054(3). To avoid a lapse, the Department is concurrently proposing non-emergency routine technical changes.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$4,237,264 in SFY 2020, which includes \$1,491,405 in state dollars and \$2,745,859 in federal dollars, and \$6,595,787 in SFY 2021, which includes \$2,183,171 in state dollars and \$4,412,616 in federal dollars.

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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; 5 MRS §8054; PL 2019 ch. 4 *and* 343; Resolves 2019 ch. 99 *and* 110; PL 2019 ch. 616  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. II & III §65**, Behavioral Health Services  
**Filing number:** **2020-178**  
**Effective date:** 8/19/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department of Health and Human Services (“the Department”) adopted this rule to finalize the following changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual*, ch. II and III sec. 65, “Behavioral Health Services”.

In ch. II, the Department proposes to remove the twenty-four (24) month lifetime limit for reimbursement for Medication Assisted Treatment (“MAT”) with Methadone for opioid addiction to align with changes in state law which took effect on March 14, 2019 under PL 2019 ch. 4, *An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2019*, and which were previously announced via the Department’s list serv to interested parties on March 22, 2019. The Act repealed 22 MRS §§ 3174-SS and 3174-VV which had set limitations on these services. By removing the lifetime limit, members may access MAT with Methadone for as long as medically necessary, with no lifetime cap on services. The Department’s removal of the 24-month cap has already been approved by the Centers for Medicare and Medicaid Services (CMS).

Additionally, in ch. III the Department adopts this rule to finalize the increased rate of reimbursement for MAT with Methadone retroactive to July 1, 2019. Pursuant to PL 2019, ch. 343, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2019, June 30, 2020 and June 30, 2021* (effective June 17, 2019), the Legislature increased funding for the weekly reimbursement rate for MAT services for the FY2020 and FY2021 state budgets. The Department emergency adopted the rate increase on May 21, 2020 after finding the adoption of the MAT rate increase was necessary to avoid an immediate threat to public health, safety, or general welfare under 5 MRS §8054.

The Department is seeking and anticipates approval from CMS for the MAT rate increase. The Department published a Notice of MaineCare Reimbursement Methodology Change on June 28, 2019 notifying providers of this increase and is awaiting approval of a state plan amendment. Pending that approval, the Department will reimburse MAT services at the increased rate retroactive to July 1, 2019.

Additionally, the Department finalized adoption of increases of the rates of reimbursement in ch. III for Functional Family Therapy (FFT), Multisystemic Therapy (MST), Multisystemic Therapy for Problem Sexualized Behaviors (MST-PSB) by 20% effective January 1, 2020 in accordance with Resolves 2019, ch. 110, *Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children* (effective January 12, 2020). In approving this legislation (which became law without the

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Governor's signature), the Legislature determined that an immediate effective date was necessary given the rates had "not been adjusted in more than 8 years" and the rates were "insufficient to enable some providers to continue to provide services."

The Department is seeking and anticipates CMS approval for the 20% rate increases for FFT, MST, and MST-PSB services. The Department published a Notice of MaineCare Reimbursement Methodology Change on June 28, 2019 of the intended 20% rate increases with the expectation that the Legislature would approve the increases effective July 1, 2019. The Department believes this notice is sufficient despite the legislation not taking effect until January 12, 2020. The Department will reimburse FFT, MST, and MST-PSB services at increased rates retroactive to January 1, 2020.

Additionally, following the completion of the rate study directed by Resolves 2019 ch. 110 and completed by Burns and Associates, the Department adopted new increased rates for MST, MST-PSB, and FFT. The additional funding has been approved for the FY2021 state budget pursuant to PL 2019 ch. 616, *An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021* (effective March 18, 2020). Through the rate study process and in line with the Legislature's directive in the Resolve, the Department has made the determination to switch reimbursement from quarter hour billing to a weekly case rate to reflect the requirements for the evidence-based models. In ch. II, the Department has ended Collateral Contacts for MST, MST-PSB, and FFT as these services have been incorporated into the new weekly case rate, and the Department has also adopted minimum contact standards for providers accessing this new weekly case rate. Following public comment, the Department reviewed and updated the minimum contact requirements to add flexibility and consistency to the evidence based model for the final rule.

In ch. III, the Department has finalized adoption of deleting the prior quarter hour codes and adding in the new weekly codes and rates. In response to financial challenges and civil emergency created by the COVID-19 pandemic, the Department has advanced the increased rates from the anticipated July 1, 2020 start date approved in the FY2021 budget retroactively to May 1, 2020, in order to provide financial relief, to support stability in the workforce, and to increase access to members in need. The Department further found that the immediate adoption of the MST, MST-PSB, and FFT rate increases was necessary to avoid an immediate threat to public health, safety, or general welfare under 5 MRS §8054, and adopted an emergency rule May 21, 2020.

The Department published a Notice of MaineCare Reimbursement Methodology Change on April 30, 2020 of the intended rate increases and filed a State Plan Amendment with CMS on June 30, 2020. The Department will reimburse MST, MST-PSB, and FFT at increased weekly rates retroactive to May 1, 2020.

The rate study described above also developed a rate for an evidence-based modality of outpatient therapy, Trauma Focused Cognitive Behavioral Therapy (TF-CBT). The Department has adopted a service description and provider requirements in ch. II and rate in ch. III for this evidence-based practice. Following public comment, the Department added psychiatrists to the list of qualified professionals delivering TF-CBT. The Department will be seeking and anticipates CMS approval for these new services that are intended to benefit providers and members alike.

In addition, this rulemaking adopts coverage in ch. II and reimbursement in ch. III for three evidence-based parenting programs for children with disruptive behavior disorders: Positive Parenting Program (Triple P), the Incredible Years (IY), and Parent-Child Interaction Therapy (PCIT). Following public comment, the Department added language for fidelity monitoring, updated the eligibility criteria for consistency with the evidence-based models and

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to add the “other specified” and “unspecified” disorders to aid in qualifying young children where it may otherwise be inappropriate to render a full diagnosis. The Department has also updated the rate methodology to assure the rate assumptions use current wage data for the appropriate education level determined by the model. This update in methodology resulted in an increase to the final rates for all three services. The Department will be seeking and anticipates CMS approval for these new services that are intended to benefit providers and members alike.

With this rule, the Department adopted coding changes to comport with coding updates per the National Correct Coding Initiative for certain Neuropsychological testing services effective January 1, 2019. The reimbursement table for these codes in ch. III have been adjusted to reflect billing as of January 1, 2019. The changes were made in the system and the public notified via list serve of the coding changes on January 31, 2019, and now the Department wishes to update policy for consistency. Coverage language in ch. II has been updated to reflect the intent of the new codes.

Additionally, the Department adopted changes to the educational requirements for Behavioral Health Professionals in accordance with Resolves 2019, ch. 99, *Resolve, To Change the Educational Requirements of Certain Behavioral Health Professionals* (effective Sept. 19, 2019), creating three educational levels: high school diploma or equivalent with a minimum of 3 years direct experience working with children in a behavioral health with a specific plan for supervision and training; a minimum of 60 higher education credit hours in a related field of social services, human services, health or education; and a minimum of 90 higher education credit hours in an unrelated field with a specific plan for supervision and training. The Department has received CMS approval for these changes.

The Department finalized adoption of increased rates for certain services in accordance with PL 2019 ch. 616. In response to the COVID emergency and hardships created during this period of civil emergency, the Department made the decision to advance these rate increase to be effective retroactively to April 1, 2020. The rate changes include an increase for physicians delivering medication management, and an increase for Behavioral Health Professionals providing Home and Community-based Treatment (HCT) services. In order for physicians to access the increased rate of reimbursement, they will be required to use the AF modifier on their claims. The Department found that the immediate adoption of the medication management and HCT rate increases was necessary to avoid an immediate threat to public health, safety, or general welfare under 5 MRS §8054, and adopted this change through an emergency rule on May, 21, 2020.

The Department published a Notice of MaineCare Reimbursement Methodology Change on March 31, 2020 of the intended rate increases and filed a State Plan Amendment with CMS on June 30, 2020. The Department will reimburse Behavioral Health Professionals delivering HCT and physicians delivering Medication Management at increased rates retroactive to April 1, 2020.

The Department also adopted new coverage for Adaptive Assessments, namely the Vineland, ABAS, Bayley, and Battelle rating scales, adding coverage language within ch. II and coding within ch. III of this section. The Department has been allowing coverage for these assessments via the Comprehensive Assessment (code H2000) and wishes to clarify coverage, coding, and rate per assessment.

In addition to the above changes, the Department adopted changes in ch. II to:

- Added protections for Adults with Serious and Persistent Mental Illness regarding providers terminating services and accepting referrals for this population as defined in the rule;
- Modified HCT language regarding team requirements to allow for flexibility when clinically appropriate;



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- Added background check requirements for staff having direct interaction with members within the provision of services;
- Updated the Comprehensive Assessment and Individualized Treatment Plan (ITP) sections to clearly note what services do not require these documents, and to include in the ITP section a schedule of development and review of the new services;
- Updated Appendix I and II to reflect the changes proposed in this rulemaking; and
- Updated formatting, citations, and references where necessary, including changing “Office of Substance Abuse and Mental Health Services” to “Office of Behavioral Health” throughout the rule.

For ch. III, the Department adopted a modifier to Medication Management for Treatment with Suboxone to more clearly show coverage of that medication, which will aid in the Department’s licensing efforts for these programs.

Considering public comment, in addition to the changes to the final rule described above, the Department made the following changes to the final rule:

- The Department has added “Providers shall participate with the Department in fidelity monitoring according to the Department determined process” to 65.06-17.
- The Department updated the contact standard for MST and MST-PSB as follows:  
**MST**  
“Providers must meet a minimum of two (2) contacts per week, met by one (1) face-to-face or interactive telehealth contact, and either a second face-to-face or interactive telehealth contact or clinically substantive telephonic contact.”  
**MST-PSB**  
“Providers must meet a minimum of three (3) contacts per week, met by one (1) face-to-face or interactive telehealth contact per week with MST clinician (master’s or bachelor-level) and additional contacts met by a combination of face-to-face or interactive telehealth, or clinically substantive telephonic contact. Contacts may include individual therapy sessions for identified child, family therapy sessions, scheduled team meetings, or home or community-based skill-building sessions.”
- The Department struck “home or community skill building sessions” from the contact minimums stated in 65.08-9.
- The Department amended 65.08-9 to reflect “clinical intervention” vs “session” and has amended the description of qualifying contacts in this section.
- The Department added “FFT therapists” to the list of “Other qualified Staff” in 65.09-1.
- The Department updated the minimum contact standards in 65.08-9 to reflect minimum contacts delivered on an average of required weekly contacts per month.
- The Department amended the minimum contact language for MST and MST-PSB to update language from “sessions” to “contacts” and “scheduled team meetings” to “clinically necessary team or stakeholder meetings.”
- The Department updated 65.02-22, the definition of Functional Family Therapy, as recommended by the commenter.
- The Department updated 65.03-2 and 65.03-4 to clarify agencies are licensed by the Division of Licensing and Certification and to add that notification of changes in the level of licensure must go to DHHS, including the Office of MaineCare Services, the Office of Child and Family Services, and/or the Office of Behavioral Health.
- The Department updated 65.09-7 to remove inconsistencies and to reflect the current requirements of 22 MRS §§ 9051-9065 (the *Maine Background Check Center Act*), and the *Maine Background Check Center* rule, 10-144 CMR ch. 60.

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- The Department updated 65.02-40 to reflect the “current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).
- The Department updated 65.06-7 to remove the formal training in the ethical administration, scoring, and interpretation of clinical assessments requirements of this section, focusing more on licensed clinicians acting within their scope of practice.
- The Department updated 65.06-9.A to update the list of assessment tools currently approved by the Department for determining eligibility for Home and Community Based Treatment.
- The Department updated ch. III and the description of H2021 HN, HN U1, and G9007 HN to reflect Behavioral Health Professional, and not a specific education level.
- The Department added “and current” employees to the Background Check requirements in 65.09-7.
- The Department added “with the member’s consent” as suggested for 65.09-A.1.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$4,237,264 in SFY 2020, which includes \$1,491,405 in state dollars and \$2,745,859 in federal dollars, and \$7,685,519 in SFY 2021, which includes \$2,689,369 in state dollars and \$4,999,150 in federal dollars.

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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; PL 2019 ch. 530 part B  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 5**, Ambulance Services  
**Filing number:** **2020-215**  
**Effective date:** 10/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department adopts changes to ch. III section 5, “Ambulance Services”, to comply with PL 2019 ch. 530 part B, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*, by increasing the MaineCare reimbursement rate for ambulance services to a level that is not less than the average allowable reimbursement rate under Medicare for such services and to reimburse for neonatal transport services under MaineCare at the average rate for critical care transport services under Medicare, effective retroactive to January 1, 2020.

The Department used HCPCs code A0433 (ALS 2) to develop the rate for A0225 (neonate) through the proposed rulemaking. Based on comments received and additional analysis, the Department determined that it is more appropriate to utilize HCPCs code A0434 (specialty care transport) to develop the rate for A0225 (neonate). Section 5.07(E) was edited to reflect this change.

The Department shall submit to CMS and anticipates approval for a State Plan Amendment related to these provisions.

**Fiscal impact of rule:**

The Department anticipates this rulemaking will cost the Department approximately \$7,664,916 in SFY 2019, which includes \$2,770,101 in state dollars and \$4,894,815 in federal dollars. The Department anticipates this rulemaking will cost the Department \$9,197,899 in SFY 2020, which includes \$3,329,640 in state dollars and \$5,868,259 in federal dollars.

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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; PL 2019 ch. 530  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 103**, Rural Health Clinic Services  
**Filing number:** **2020-242**  
**Effective date:** 12/8/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No.

**Principal reason or purpose for rule:**

This rule is proposed to comply with PL 2019 ch. 530, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*. Part C sec. C-4, of the Act requires the Department to amend the Rural Health Clinic services reimbursement methodology to provide rural health clinics with an alternative payment methodology option.

**Basis statement:**

This rule is adopted to comply with PL 2019 ch. 530, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*. Part C sec. C-4, of the Act requires the Department to amend the rural health clinic services reimbursement methodology to provide rural health clinics with an alternative payment methodology option. Each rural health clinic must be given the option to be reimbursed under the existing prospective payment system methodology, or as of January 1, 2020, the alternative payment methodology of being reimbursed on the basis of 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 2016 and 2017, as long as reimbursement is no less than reimbursement received under the current prospective payment system.

The current reimbursement method is based on 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 1999 and 2000, with historical Medicare Economic Index (MEI) adjustments.

The resulting average, under both methods, is adjusted to account for any increase or decrease in the approved scope of services furnished during the provider's fiscal year 2001 or 2018, respectively, calculating the amount of payment on a per visit basis.

Between the filing of the proposed rule and the adoption of this final rule, the Department submitted to CMS the State Plan Amendment request for these provisions. As such, the referenced language in the final rule regarding the Department's submittal to CMS was changed to state the submission has been made.

The Department submitted to CMS and anticipates approval of a State Plan Amendment (SPA) related to these provisions effective retroactive to January 1, 2020. A retroactive effective date is permissible under federal Medicaid law because the SPA was submitted in February, and pursuant to 22 MRS §42(8) because these changes benefit providers.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$2,318,603 in SFY 2020, which includes \$739,449 in state dollars and \$1,579,154 in federal dollars, and \$4,637,205 in SFY 2021, which includes \$1,499,185 in state dollars and 3,138,020 in federal dollars.

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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(1)&(8), 3173  
**Chapter number/title:** **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 45**, Principal of Reimbursement: Hospital Services  
**Filing number:** **2020-233**  
**Effective date:** 11/23/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department adopts the following changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual*, ch. III Section 45, “Principles of Reimbursement, Hospital Services”: As directed by PL 2019 ch. 530, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*, the Department adopts the following changes:

1. Pursuant to sec. C-2, the Department establishes two subsets of Private Acute Care Non-Critical Access Hospitals; Rural Hospitals and Non-Rural Hospitals. The Department’s definition of “Rural Hospital” follows the Legislative directive so that the definition reflects the regional access to hospital care and the population density of the public health district in which the hospital is located. The definition of a private Acute Care Non-Critical Access “Rural” Hospital is a hospital, as reported on the hospital’s Medicare cost report, which is either: a “Sole Community Hospital”, OR a “Medicare -Dependent Hospital”, OR is a hospital participating in the Medicare “Rural Community Hospital Demonstration”. As required by the law, the following hospitals meet the “Rural Hospital” definition: Northern Light A.R. Gould Hospital in Presque Isle; Cary Medical Center in Caribou; Franklin Memorial Hospital in Farmington; Northern Light Inland Hospital in Waterville; Northern Light Maine Coast Hospital in Ellsworth; and Northern Maine Medical Center in Fort Kent.
2. Pursuant to sec. C-2, the Department will reimburse Private Acute Care Non-Critical Access Rural Hospitals at 100% of inpatient hospital-based physician costs, outpatient emergency room hospital-based physician costs, outpatient non-emergency room hospital-based physician costs, and graduate medical education costs. Pursuant to Legislative directive and funding, this provision is effective retroactive to January 1, 2020. The retroactive application of this provision is authorized pursuant to 22 MRS §42(8), which allows retroactive application where there is a benefit to a provider, as is the case with this rule.
3. Pursuant to Sec. C-2, the Department will reimburse Private Acute Care Non-Critical Access Non-Rural Hospitals at 93.3% of inpatient hospital-based physician costs, 93.4% of outpatient emergency room hospital-based physician costs, and 83.8% of outpatient non-emergency room hospital-based physician costs. Pursuant to Legislative directive and funding, this provision is effective retroactive to January 1, 2020. The retroactive application of this provision is authorized pursuant to 22 MRS §42(8), which allows retroactive application where there is a benefit to a provider, as is the case with this rule.
4. Pursuant to sec. C-3, the Department will reimburse Acute Care Critical Access Hospitals for 100% for all hospital-based physician costs. Pursuant to Legislative directive and funding, this provision is effective retroactive to January 1, 2020. The retroactive application

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of this provision is authorized pursuant to 22 MRS §42(8), which allows retroactive application where there is a benefit to a provider, as is the case with this rule.

As directed by PL 2019 ch. 343, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund, and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years ending June 30, 2019, June 30, 2020, and June 30, 2021, part A sec. 129*, the Department is adopting the following change:

The Supplemental Pool for the Acute Care Critical Access Hospitals, and also for Non-Critical Access Hospitals, Hospitals Reclassified to a Wage Area Outside Maine, and Rehabilitation Hospitals was increased.

**In addition:** The Department has clarified that each hospital's year, as used for the calculation, is the hospital's fiscal year that ended during calendar year 2016.

The Department updated Appendix B by removing invalid ICD-10 codes for non-emergency use of the emergency department.

Between the filing of the proposed rule and the adoption of this final rule, in June 2020, the Department obtained CMS approval of various SPA requests. As such, various changes to the rule from what was proposed were made to remove references to CMS approval of SPA changes. Where references to CMS remain in the rule, in order to be consistent, the Department updated the language to reflect current standard format for such references that is being used in all MaineCare rules.

**Fiscal impact of rule:**

The Department anticipates that this rulemaking will cost approximately \$12,965,956 in SFY 2019-20, which includes \$5,161,036 in state dollars and \$7,804,920 in federal dollars, and \$15,355,821 in SFY 2020-21, which includes \$6,054,811 in state dollars and \$9,301,010 in federal dollars.

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**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. VII Section 5**, Estate Recovery  
**Filing number:** **2020-234**  
**Effective date:** 11/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department of Health and Human Services (the “Department”) adopts this rule to clarify when an estate recovery claim is subject to recovery in accordance with guidance from the federal Centers for Medicare and Medicaid Services (CMS). Specifically, it changes the requirement in Section 5.04-1, “Processing Claims Against Assets”, part D, to state that any surviving child who is blind or permanently and totally disabled, be disabled at the time the Department seeks recovery. The previous marker was set at the time of the member’s death.

The Department also proposes the following changes:

- Adding language to 5.04-1(D) to define the phrase, “the time the Department seeks recovery” to mean the earlier of (1) the date of the Department’s notice of claim to the legally authorized representative of the estate or known family members or heirs; or (2) the date on which the Department files a claim in Probate Court.
- Adding numbering to 5.07(A) to clarify the application process requirements for all waivers.
- Adding language to 5.08(A)(1)(b) to provide guidance on how the 180% of the Federal Poverty level is determined by the Department and what income and asset information is required by the applicant for evaluation.
- Adding language for clarification to 5.08(B)(2)(a) to specify 24-hour a day care must be provided to the member and adding an additional requirement that the member could not be receiving in home services.
- Adding clarification to 5.08(B)(2) that an applicant will receive the highest allowable waiver in instances when an applicant may qualify for more than one care given hardship waiver.
- Updating language in 5.09(B) for clarification of the current Departmental reference.
- Adding clarification to 5.10(A) to incorporate limits of allowable expenses following the Member’s death and the requirement the decedent’s property was vacant.
- Finally, the Department is proposing minor language, clerical, and reference number edits.
- Following review as to form and legality, the Department is adding language in various provisions of the final rule to indicate that the Department shall submit and anticipates CMS approval of the changes via a State Plan Amendment.

**Fiscal impact of rule:**

This change is cost neutral.

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**Agency name:** Department of Health and Human Services  
**Umbrella-Unit:** 10-144  
**Statutory authority:** PL 2019 ch. 472 (5 MRS ch. 167 and 22-A MRS §205)  
**Chapter number/title:** Ch. 104, Maine State Services Manual: Section 8, Wholesale Prescription Drug Importation Program  
**Filing number:** 2020-118  
**Effective date:** 6/14/2020  
**Type of rule:** Major substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This major substantive rule is adopted in order to implement 5 MRS ch. 167.

**Basis statement:**

This rule is a major substantive rule and has been approved by the Maine Legislature with specified amendments.

On January 10, 2020, the DHHS Commissioner adopted a provisionally adopted major substantive rule to implement PL 2019 ch. 472, *An Act to Increase Access to Low-cost Prescription Drugs*, as codified in 5 MRS §§ 2041-2044. That law directed the Department to develop a program to allow for the wholesale importation of prescription drugs from Canada and to submit a proposal to the federal Secretary of Health and Human Services to approve the Maine program.

The provisionally adopted major substantive rule:

1. Created a process for the design of a wholesale prescription drug importation program, in anticipation of the release of federal rules establishing an application pathway for demonstration projects allowing importation by states and other entities. On December 18, 2019 the U.S. Department of Health and Human Services and the U.S. Food and Drug Administration issued a notice of proposed rulemaking that, if finalized, would allow for the importation of certain prescription drugs from Canada by states and certain other non-federal government entities. Those regulations will be codified in 21 CFR parts 1 and 251. The federal rules will be based on 21 USC §384, the same federal law that PL 2019 ch. 472 requires the Department to comply with.
2. Provided that the Department of Health and Human Services will submit an application on behalf of the State of Maine, as soon as it is practicable after finalization of the federal rule.
3. Provided for a stakeholder engagement process, which includes public meetings hosted and facilitated by the Department, with opportunities for comments and questions from attendees, between January 1<sup>st</sup>, 2020 and July 1, 2020.

In accordance with 5 MRS §8072, the Department submitted the provisionally adopted rule to the Maine Legislature for its review and approval. The Legislature approved the provisionally adopted major substantive rule with certain changes. Resolves 2019 ch. 136, was approved by the Governor on March 18, 2020.

The Resolve required that the Department make the following changes to the rule:

- a. Amend Section 8.01 to provide that the Department shall submit an application no later than May 1, 2020, and, if the federal rule is not finalized prior to May 1, 2020, that the Department shall submit a subsequent or revised application as soon as practicable after finalization of the federal rule;
- b. Amend Section 8.02 by amending the time allowed for input from between January 1, 2020 and July 1, 2020 to between January 1, 2020 and March 16,



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2020, and to allow for additional input from stakeholders as necessary after the federal rule is finalized;

- c. Amend Section 8.03 to require the Department, following the conclusion of the stakeholder input process and as required by Title 5, section 2042, to submit an application to the U.S. Department of Health and Human Services to establish a state importation program no later than May 1, 2020. The rule must be amended to also require that, if the final federal rule is not released before May 1, 2020, the Department shall submit a subsequent or revised application to establish a state importation program as soon as is practicable after the release of the final federal rule. The rule must also be amended to require that, if the Department determines further rulemaking is necessary to implement the requirements of the program design, addition rules will be proposed.

The Department made all of those changes in this final rule.

The Legislature further determined that the Department is not required to hold hearings or undertake further proceedings prior to the final adoption of the rule. The Resolve included an Emergency Clause, to the effect that in view of the emergency cited in the Resolve preamble this legislation will take effect when approved. Governor Mills approved the Resolve on March 18, 2020.

**Note:** The Department did file an application on May 1, 2020, in compliance with the Resolve. As of May 1, 2020, the federal government had not finalized the federal rule.

**Fiscal impact of rule:**

The costs of the program will be evaluated in the process of the program design and may be significantly different depending on the requirements laid out in the anticipated federal rule creating a pathway for approval. No funds were appropriated for the creation or ongoing administration of the program, and additional appropriations may be required for implementation.

This rulemaking will not impose any costs on municipal or county governments, or on small businesses employing twenty or fewer employees.

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**Agency name:** Department of Health and Human Services, **Division of Licensing and Certification**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 1817, 1820  
**Chapter number/title:** **Ch. 110**, Regulation Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities  
**Filing number:** **2020-111**  
**Effective date:** 4/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

10-144 Ch.110, *Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities*, is a routine/technical rule of the Department of Health and Human Services.

Maine is facing a substantial public health threat posed by the global spread of the 2019 Novel Coronavirus (COVID-19). The increased spread of the 2019 Novel Coronavirus (COVID-19) in Maine's skilled nursing and nursing facilities has resulted in the deaths of residents, and requires new measures, effective immediately, to avoid a potentially severe and immediate threat to public health, safety, and general welfare. These new measures will improve nursing home infection control, surveillance, and infection mitigation; and improve facilities' crisis staffing plans.

**Fiscal impact of rule:**

There will be no additional costs to the Department as a result of this rulemaking.

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**Agency name:** Department of Health and Human Services, **Division of Licensing and Certification**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 1817, 1820  
**Chapter number/title:** **Ch. 110**, Regulation Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities  
**Filing number:** **2020-169**  
**Effective date:** 8/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

10-144 CMR ch. 110, *Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities*, is a routine/technical rule of the Department of Health and Human Services.

The Department of Health and Human Services, Division of Licensing and Certification, conducted emergency rulemaking to make changes to ch. 21 of this rule in response to a substantial public health threat posed by the global spread of the 2019 Novel Coronavirus (COVID-19). The increased spread of the 2019 Novel Coronavirus (COVID-19) in Maine's skilled nursing and nursing facilities resulted in the deaths of residents and required new measures to avoid a potentially severe and immediate threat to public health, safety, and general welfare.

This rulemaking permanently adopts the measures that became effective on April 28, 2020, in order to retain improvements to nursing home infection control, surveillance, infection mitigation and facilities' crisis staffing plans. The adopted rule expands the scope of the provisions related to Infection Control to include all potential future outbreaks of infectious diseases.

The adopted rule also expands the scope of non-nursing personnel that a skilled nursing facility or nursing facility may employ, to address ongoing staffing shortages.

The adopted rule has been reformatted, condensing 21 documents into a single Word document, to enable easier use by licensees and surveyors. The divisions of the rule formerly labelled "Chapters" have been retitled "Sections".

**Fiscal impact of rule:**

There will be no additional costs to the Department as a result of this rulemaking.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 42, 1951, 3173  
**Chapter number/title:** **Ch. 124**, Emergency Medical Services Personnel Reporting Rule  
**Filing number:** **2020-099**  
**Effective date:** 4/22/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Department is authorized to implement rules to require entities to report information related to public health emergency responsiveness, including healthcare workforce capacity in the event of a potential or actual outbreak of a notifiable condition, public health emergency or extreme public health emergency. (22 MRS §820 (1)(C).) Pursuant to 5 MRS §8054, the emergency adoption of this major substantive rule establishes reporting requirements to collect information from emergency medical service (EMS) organizations and emergency medical dispatch (EMD) centers, specific to EMS personnel who have been removed from service due exposure or potential exposure of a notifiable disease, or the onset of signs and symptoms of a notifiable condition or disease. Reporting must be in the form prescribed by the Department. This rule requires electronic reporting within 24 hours of the EMS personnel being removed from service, in accordance with Department-issued guidance, and within 24 hours of a change in status. Information collected under this rule includes, but is not limited to, license numbers of EMS personnel absent from the workforce due to exposure to, or symptoms of, a notifiable condition; the name of the service organization; dates of self-quarantine, onset of symptoms, hospitalization and return to work. Information that identifies EMS personnel is confidential and may not be further released, except as authorized by law and this rule. Reporting under this rule is in addition to any reporting required by separate agency rules, including 10-144 CMR ch. 258, *Rules for the Control of Notifiable Diseases and Conditions*. The immediate adoption of this rule is necessary to enable the surveillance of the personnel aspect of Maine emergency medical system during a state of civil emergency, to ensure that the Department can assist in responding appropriately to public health emergencies and support the Maine EMS as a comprehensive and effective system for optimizing patient care during a state of civil emergency.

**Basis statement:**

The Department of Health and Human Services (Department) is adopting a new rule on an emergency basis, 10-144 CMR ch. 124, *Emergency Medical Services Personnel Reporting Rule*, pursuant to 5 MRS §8054. As authorized by 22 MRS §820(1)(C), the Department is implementing this major substantive rule to establish requirements of a uniform system of reporting information to enable statewide surveillance of the response capacity of the State's healthcare workforce, specifically emergency medical service (EMS) personnel, in the event of a declared public health threat or extreme public health emergency. This rule will enable the Department to further the coordination and integration of activities and resources related to emergency medical services to inform the overall planning, evaluation, coordination, facilitation and operations of an effective comprehensive statewide emergency medical services system.

This rule establishes requirements for EMS organizations and emergency medical dispatch (EMD) centers to report information about EMS personnel who, during a declared public health threat or extreme public health emergency, have been removed from the

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workforce temporarily because they have been exposed to a notifiable condition, or because they have developed symptoms of a notifiable disease, in accordance with the guidance issued by the Department in partnership with the Department of Public Safety Maine EMS. Under this rule, EMS organizations and EMD centers are responsible for compliance with electronic reporting. Reporting must be completed within 24 hours of when the EMS personnel is removed from service. Reporting of certain subsequent events must also be completed within 24 hours. Information collected specific to EMS personnel, which includes licensed emergency medical service responders, emergency medical transportation services and dispatch, will be used for public health surveillance purposes and will inform decisions regarding healthcare workforce capacity as a key element of a comprehensive and effective emergency medical services system.

**Findings of Emergency:** Pursuant to 5 MRS §8054, the Department is adopting this major substantive rule on an emergency basis to immediately implement reporting requirements related to licensed personnel within Maine's emergency medical service system who function to assist in the event of public health threat or extreme public health emergency and who, by the nature of the work, are at risk of exposure to and transmission of a communicable disease. The State of Maine is currently under a state of civil emergency, which includes an extreme public health emergency under 22 MRS §802(2-A) and 37-B MRS §742(1). Accurate and reliable statewide data is essential for coordinating with municipal localities, other State offices, federal emergency management agencies and healthcare systems across the State to prepare for and respond to emergency needs with the COVID-19 response efforts. The Department determined that, as a matter of vital concern affecting the health, safety and welfare of the public, the immediate adoption of the rule to enable surveillance of the personnel aspect of Maine emergency medical system is necessary to aid emergency preparedness and responsiveness at the State and local levels to mitigate the impact of potential and declared public health threats or extreme public health emergencies and natural or man-made disasters, to manage the demands for trained, skilled emergency medical service personnel and ensure the appropriate capacity for Maine's EMS system.

In accordance with 5 MRS §8073, this major substantive rule adopted on an emergency basis is effective for up to 12 months or until the Legislature has completed review of this rule. To ensure that the rule's requirements continue after the expiration of the emergency rule period, the Department is promptly following this emergency rulemaking with a proposed major substantive rule to adopt these reporting requirements for on-going surveillance and use during a declared public health emergency.

**Fiscal impact of rule:**

None anticipated.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 2496, 2664, 1551-A; 32 MRS §§ 4251, 4252, 4325, 4326  
**Chapter number/title:** **Ch. 201**, Administration and Enforcement of Establishments Regulated by the Health Inspection Program  
**Filing number:** **2020-165**  
**Effective date:** 7/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Maine CDC is adopting an increase of its licensing fees for eating places (excluding municipal licenses, schools, electrologists and senior citizen meal sites), lodging places, campgrounds, combination licenses, youth camps, public pools/spas, tattooist and body piercers. The increases that are proposed in this rule are within the statutory caps or have otherwise been designated routine technical by statute. The Maine CDC has determined that these fee increases are necessary to keep the program solvent, ensuring that inspections continue for the health and safety of people served at facilities licensed through HIP.

**Basis statement:**

The Department of Health and Human Services, Maine CDC (the Department), advertised a proposed rulemaking on February 19, 2020 to amend an existing rule, 10-144 CMR ch. 201, *Administration and Enforcement of Establishments Regulated by the Health Inspection Program*. A public hearing was held on March 11, 2020. Written comments were accepted until March 21, 2020.

The Maine CDC is adopting an increase of its licensing fees for eating places (excluding municipal licenses, schools and senior citizen meal sites), lodging places, campgrounds, combination licenses, youth camps, public pools/spas, and certain body artists.

Various types of businesses are required to be licensed pursuant to 22 MRS §§ 2491, *et seq.*, including, but not limited to, eating establishments, lodging places, recreational camps, youth camps, campgrounds, public pools and spas, and body artists. 22 MRS §§ 2491-2492. The Department of Health and Human Services has authority through 22 MRS §2494 to assess licensing fees within a set statutory limit for eating establishments, lodging places, recreational camps, youth camps, and campgrounds. Given that public pools and spas are explicitly referenced in section 2491, the Department interprets §2494 to include public pools and spas, and indeed, those businesses are currently assessed for and routinely pay licensing fees under this rule. These licensing fees include the cost of the license, one licensure inspection and one follow-up inspection. The Department is authorized to assess licensing fees for tattoo artists and body piercers within statutory caps set forth in 32 MRS §§ 4252, 4325. The fee increases adopted in this rule are approximately 35% and are within the applicable statutory limits. The Health Inspection Program (HIP) is partially self-funded through its license fee revenue. HIP fees have remained the same since Fiscal Year 2014 and the program is currently operating at a deficit. The Maine CDC has determined that these fee increases are necessary to keep the program solvent, ensuring that inspections continue for the health and safety of people served at establishments licensed through HIP.

**Fiscal impact of rule:**

These rule changes pose no fiscal impact to counties or municipalities. The Department will see an increase in Other Special Revenue Funds of \$380,055 annually. Small Businesses: Most applicants and licensees would be required to pay higher license fees, due to the proposed fee increases.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 565(3), 2602-A 2609, 2660-U, 2660-X  
**Chapter number/title:** **Ch. 233**, Rules Relating to Testing Private Water Systems for Hazardous Contaminants (*Repeal*)  
**Filing number:** **2020-187**  
**Effective date:** 8/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
See entry 2020-188 for ch. 257.

**Basis statement:**  
See entry 2020-188 for ch. 257.

**Fiscal impact of rule:**  
See entry 2020-188 for ch. 257.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**

**Umbrella-Unit:** **10-144**

**Statutory authority:** 22 MRS §§ 565(3), 2602-A 2609, 2660-U, 2660-X

**Chapter number/title:** **Ch. 257**, Schedule of Charges for Testing and Services Provided by the Maine Health and Environmental Testing Laboratory

**Filing number:** **2020-188**

**Effective date:** 8/26/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

**Ch. 257 rule:** This rule proposes to repeal and replace the existing ch. 257 to implement requirements of the recently revised 22 MRS ch. 601 sub-ch. 8. This routine technical rule sets a new schedule of charges for services and analytical testing performed by the Health and Environmental Testing Laboratory (HETL) and formalizes HETL's rate setting methodology for charges for testing and services, including, but not limited to the chemical and microbiological testing and examination of food products, public and private drinking water samples from wells and surface water, and environmental and forensic samples; the examination of cases and suspected cases of infectious and communicable diseases; and other essential public health services. Additionally, this proposed rule adopts specific uniform testing recommendations for private residential drinking water well samples. This rule requires laboratories to use HL7 messaging; to clarify circumstances for waiver considerations; and to update administrative charges for services including licensing, manual data entry required for noncompliance, and payment collection services. This rule adopts the fee mandated for the Private Well Safe Drinking Fund collection. This rule change is necessary for the sustainability of HETL that operates to provide clinical, environmental and forensic tests related to public health and is used by federal, State, county and municipal agencies for compliance and enforcement.

**Ch. 233 rule:** This rule repeals 10-144 CMR ch. 233, because the information within this rule is outdated and will be clarified and addressed by the Department's rulemaking for ch. 257.

**Basis statement:**

The Department of Health and Human Services, Maine CDC (Department), advertised a proposed rulemaking on March 4, 2020 to repeal and replace the existing 10-144 CMR ch. 257 and repeal 10-144 CMR ch. 233. On March 25, 2020, following the Governor's March 15, 2020 proclamation of a state of civil emergency, the Department published a revised notice with an extended comment period in lieu of holding the public hearing advertised in the initial notice of rulemaking. Written comments were accepted from March 4 through April 24, 2020.

The Maine CDC is adopting this rule, pursuant to 22 MRS §565 and §2660-X, in order to update the rules specific to tests and services provided by the Maine Health and Environmental Testing Laboratory (HETL). This rule implements requirements including, but not limited to, identifying services available through HETL and those essential for public health reasons, specifying the testing recommendations for residential private drinking water wells, water sample test reporting, and setting fee schedules.

The Department is statutorily obligated to provide laboratory services for analytical testing, including, but not limited to: the chemical and microbiological testing and examination of water supplies, food products, drinking water, and environmental and forensic samples; testing and examination of cases and suspected cases of infectious and



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communicable diseases; and those services deemed essential to public health. As authorized, the Department is establishing, by adopting this rule, an updated schedule of charges for testing services rendered by HETL, based on the average costs for those services for which the cost for test supplies, instrumentation, marketplace rates, and comparable tests are among the factors. In the occasional event that the Department is required to perform testing or services not identified in the rule, the Department will estimate costs, based upon information available, to calculate an average cost at the time the test or service is provided and adjust the charges applied if less than the estimated cost. The updated fee schedule ensures the fiscal stability of HETL and sustains mandated services by defraying the costs incurred.

In accordance with the governing authority, this rule 1) specifies the menu of, and charges for, testing and services available through HETL; 2) implements the fee that is to be collected from those ordering residential private drinking water well tests and deposited into the special revenue fund established in accordance with 22 MRS §2660-W; 3) establishes the administrative charges for licensing, manual data entry for all clinical submissions not sent electronically, and collection of overdue payment; 4) establishes the combination of tests recommended by the Department for periodic testing of residential private drinking water well that labs must include in certain related written material; 5) requires labs to submit electronic orders to HETL and use HL7 messaging, as of January 2022, unless the lab has been granted a waiver based on the lab's low volume of samples submitted; 6) provides for input from the Department's advisory committee regarding recommended tests and Private Well Safe Drinking Water Fund expenditures; and 7) outlines considerations for the Department when determining whether to grant requests for financial waivers for indigent homeowners and nonprofits partnering with public agencies, and for ensuring the availability of services deemed by HETL as essential for public health.

**Fiscal impact of rule:**

The adopted fee schedule contains increases to some fees, which may impact government, municipal and county agencies that use the State-operated laboratory, HETL, for services associated with public health, including, but not limited to, drinking water compliance testing, the testing and examination of cases and suspected cases of infectious and communicable diseases, and services deemed essential to public health. The schedule of charges is established to recover costs incurred by HETL and based on costs to the Department for performing tests and services, program cost analysis and market studies. Those ordering water tests for residential private drinking wells will be assessed an additional five percent of the cost of the testing. The Department anticipates a minimal cost associated with updating education and other material related to residential private drinking water well testing to include the Department's uniform recommendation.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 5 MRS §§ 8054, 8073; 22 MRS §§ 802, 822  
**Chapter number/title:** **Ch. 258**, Rules for the Control of Notifiable Diseases and Conditions  
**Filing number:** **2020-117**  
**Effective date:** 5/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The emergency adoption of amendments to 10-144 CMR ch. 258 will immediately require designated health care facilities to report the number and type of available beds and medical supply inventory to improve emergency management operations, which has been voluntary. Another reason for these immediate amendments is to clarify Section 2(H) to enable the Department to directly access hospital and provider records through the state health information exchange described at 22 MRS §1711-C(18). This access to the same case records already shared by providers during an epidemiological investigation will help the Department retrieve this information related to symptom onset and potential exposure information more efficiently than the current method of the Department directly contacting each provider to send the clinical records to the Department.

**Basis statement:**

The Department of Health and Human Services Maine Center for Disease Control and Prevention (“Department”) is adopting, on an emergency basis, partial amendments to 10-144 CMR ch. 258, *Rules for The Control of Notifiable Diseases And Conditions*, to achieve two urgent goals. First, the Department is seeking to solidify emergency planning efforts and reporting of critical resources and supplies, in light of the current COVID-19 extreme public health emergency, which is a critical component of the epidemiological tasks of investigating cases, outbreaks, epidemics, exposures, or potential epidemics or exposures of notifiable conditions and diseases like COVID-19. Second, the Department is intending to clarify its authority to articulate another method of accessing hospital and provider records to include directly accessing a statewide health information exchange in accordance with 22 MRS §1711-C(18), to more effectively facilitate epidemiological investigations. The Department is also changing the title of the rule to align with Maine CDC formatting conventions.

Title 22 MRS §822, as amended by Public Law 2020 ch. 617, *An Act to Implement Provisions Necessary to the Health, Welfare, and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency. Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency* (effective March 18, 2020), grants the Department authority to amend Ch. 258, which is in accordance with the Department’s emergency rulemaking authority under 5 MRS §§ 8054 and 8073, and in response to the Governor’s proclamation, *Proclamation of State of Civil Emergency to Further Protect Public Health* (March 15, 2020).

As amended, 22 MRS §822 authorizes the Department to require designated health care facilities to report specific information to the Department, including, but not limited to, bed capacity within the facility and the health care facility’s emergency management planning and operations. Adoption of this rule amendment standardizes reporting requirements to enable surveillance of resources critical to State and local responsiveness to minimize infections and morbidity rates by relying on accurate and reliable statewide data to prepare for, and respond to, emergency needs.

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Maine statute (22 MRS §802(1)(C)) authorizes the Department to make rules to describe its process for investigating cases, epidemics, and occurrences of communicable, environmental, and occupational diseases. The emergency amendment to Section 2(H) clarifying the Department's authority to access patient and hospital information to include a statewide health information exchange, described in 22 MRS §1711-C. Such access of the exchange would occur during epidemiological investigations of known cases of notifiable conditions and diseases, to determine clinical information, to include confirmation of information obtained from other sources, identify potential contact history related to the specific condition or disease being investigated.

**Findings of Emergency:** The Department is adopting amendments to this routine technical rule on an emergency basis to immediately implement reporting requirements during this current state of civil emergency resulting from COVID-19. The Department has determined that immediate adoption of both rule amendments is necessary to ensure timely access to accurate and reliable information, to respond to public health emergencies and investigate cases more efficiently. Emergency adoption of these changes will help protect the health, safety and wellbeing of citizens of Maine.

**Fiscal impact of rule:**

No anticipated impact.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §1904  
**Chapter number/title:** **Ch. 287**, Rules for Family Planning Funding (*Repeal*)  
**Filing number:** **2020-051**  
**Effective date:** 3/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule was enacted to ensure that all State contracts for family planning services included assurances that State contractors were in compliance with federal Title X Program Guidelines for Project Grants for Family Planning Services. Recent changes to the federal Title X Program Guidelines would prevent Maine health care providers who receive Title X funding to discuss all possible health care options with their clients and prohibit them from making referrals for abortion services. The Department's repeal of 10-144 CMR ch. 287 ensures continued access to reproductive health care services by allowing the State to set its own requirements for program standards through contract negotiations with providers. The *Rules for Family Planning Funding* do not contain enforcement mechanisms, nor does the rule cite any statutory authority for requiring recipients of state family planning funds to comply with federal Title X Program Guidelines.

**Basis statement:**

The *Rules for Family Planning Funding* did not contain enforcement mechanisms, nor was there any statutory authority for this rule. This rule was established to ensure that all State contracts for family planning services include assurances that State contractors are in compliance with federal Title X Program Guidelines for Project Grants for Family Planning Services. The adoption of the repeal of this rule mirrors the repeal currently in place since December 4, 2019, through emergency rulemaking.

Recent changes to the federal Title X Program Guidelines would not permit Maine health care providers who receive Title X funding to discuss all available health care options, including abortion services, with their patients. Therefore, the Department found the repeal of 10-144 CMR ch. 287 is necessary to ensure continued access to all health care services in accordance with program standards and requirements established within provider contracts. Providers can continue to treat patients through services as currently offered. The repeal of this rule does not create additional restrictions on providers.

The Department determined that there is no impact to the clients served as a result of this rule being repealed. Clients already benefit from program language and standards within provider contracts. Program requirements are defined by contract on a case-by-case basis. In addition, there is no impact to providers based on the repeal of this rule as providers are already familiar with the service (and are currently providing that service to their contract requirements). Services will continue in the same manner, as program standards and requirements within existing provider contracts remain unchanged.

**Fiscal impact of rule:**

None anticipated.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 1320,1320-A, 1323; 5 MRS §8054  
**Chapter number/title:** **Ch. 292**, Rules Relating to the *Lead Poisoning Control Act*  
**Filing number:** **2020-088**  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Department is adopting this rule on an emergency basis to immediately implement the revised federal dust-lead hazard standards that went into effect January 2020 (40 CFR §745.65). Lead-contaminated dust standards are used by the Department to identify lead hazards in dwellings and child-occupied facilities that must be abated. These standards require immediate updating, to align with the new lower U.S. Environmental Protection Agency (EPA) dust-lead contamination levels of 10 µg/ft<sup>2</sup> on floors and 100 µg/ft<sup>2</sup> on window sills. The scope and extent of this rule change is limited to a change in the existing definition of “lead-contaminated dust,” which, based on prior federal standards, currently allows concentration levels of lead up to 40 µg/ft<sup>2</sup> on floors and 250 µg/ft<sup>2</sup> on window sills for identifying dust-lead hazards. This rule permits the Department to require abatement of unsafe lead-dust levels on floors and window sills based on the lower threshold, reducing the risk of lead poisoning for young children exposed to lead dust.

**Basis statement:**

The Department of Health and Human Services (Department) is adopting emergency changes to the *Rules Relating to the Lead Poisoning Control Act*. These changes adopt the new lower federal dust-lead hazard standards to identify the presence of environmental lead hazards that must be removed in accordance with the *Maine’s Lead Poisoning Control Act* (22 MRS ch. 252). The Department’s current rules (10-144 CMR ch. 292) define lead contaminated dust as a surface dust concentration of lead equal to or exceeding 40 µg/ft<sup>2</sup> on floors, 250 µg/ft<sup>2</sup> on window sills, last amended October 2016. The U.S. Environmental Protection Agency (EPA) has since adopted new federal dust-lead hazard standards of 10 µg/ft<sup>2</sup> on floors and 100 µg/ft<sup>2</sup> on window sills that update their prior standards of 40 µg/ft<sup>2</sup> on floors and 250 µg/ft<sup>2</sup> on window sills. These new federal standards became effective January 6, 2020, as codified in 40 CFR §745.65.

**Emergency Justification:** Pursuant to 5 MRS §8054, the Department has determined that immediate adoption of this rule is necessary to avoid an immediate threat to public health, safety, or general welfare by immediately adopting these federal standards to identify the presence of environmental lead hazards and require these hazards to be removed to protect children from lead poisoning, as required by the *Maine Lead Poisoning Control Act*. There is strong scientific evidence that the dust-lead hazard standards of 40 µg/ft<sup>2</sup> and 250 µg/ft<sup>2</sup> on floors and window sills, respectively, present a significant risk of lead poisoning for young children exposed to these lead dust levels. As these standards are used by the Department to identify lead hazards in dwellings that must be abated, delay in adopting these new standards will result in the Department being prohibited from requiring abatement of unsafe lead-dust levels on floors and window sills. The Department’s own published findings indicate that use of these new lower EPA dust-lead standards will result in an increase in dwellings associated with lead poisoned children being identified as having hazards that must be abated for presence of environmental lead hazards (86% of inspected homes using the new standards

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versus 79% using existing standards).<sup>1</sup> Use of the new standards will also result in a significant increase in floors (66% versus 38%) and window sills (53% versus 38%) identified as having lead dust hazards that must be abated.

The Department is promptly following this emergency rulemaking with proposed rulemaking. Additionally, the Maine Department of Environmental Protection will be undertaking rulemaking to adopt these new federal standards, ensuring that these related rules are consistent.

**Fiscal impact of rule:**

The Department may anticipate costs of approximately \$30,000 per year in additional lead abatement services.

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<sup>1</sup> Cluett R. et al., Findings of a Statewide Environmental Lead Inspection Program Targeting Homes of Children With Blood Lead Levels as Low as 5 µg/dL. *Journal of Public Health Management and Practice*. February 2019 • Volume 25, Number 1 Supp.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention**  
**Umbrella-Unit:** **10-144**  
**Statutory authority:** 22 MRS §§ 1320,1320-A, 1323  
**Chapter number/title:** **Ch. 292**, Rules Relating to the *Lead Poisoning Control Act*  
**Filing number:** **2020-168**  
**Effective date:** 7/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Pursuant to 5 MRS §8054, the Department is proposing this rule change to ensure that the changes recently adopted on an emergency basis will permanently implement the revised federal dust-lead hazard standards that went into effect January 2020 (40 CFR §745.65). Lead-contaminated dust standards are used by the Department to identify lead hazards in dwellings and child-occupied facilities that must be abated. The most recent emergency adoption and this proposed change are necessary to align with the new lower U.S. Environmental Protection Agency (EPA) dust-lead contamination levels of 10 µg/ft<sup>2</sup> on floors and 100 µg/ft<sup>2</sup> on window sills. The scope and extent of this proposed rule change, consistent with the current emergency rule in effect, is limited to a change in the existing definition of “lead-contaminated dust,” which, based on prior federal standards, currently allows concentration levels of lead up to 40 µg/ft<sup>2</sup> on floors and 250 µg/ft<sup>2</sup> on window sills for identifying dust-lead hazards. This proposed rule change would permit the Department to require abatement of unsafe lead-dust levels on floors and window sills based on the lower threshold, reducing the risk of lead poisoning for young children exposed to lead dust.

**Basis statement:**

The Department of Health and Human Services (Department) is adopting routine technical rule changes to the Rules Relating to the *Lead Poisoning Control Act*, pursuant to 5 MRS §8052, to coincide with the expiration of the existing rule adopted on an emergency basis (5 MRS §8054). This rule permanently implements standards adopted by emergency rule to align with the recently revised federal dust-lead hazard standards (40 CFR §745.65). The U.S. Environmental Protection Agency (EPA) established dust-lead hazard standards of 10 µg/ft<sup>2</sup> on floors and 100 µg/ft<sup>2</sup> on window sills, updating prior standards of 40 µg/ft<sup>2</sup> on floors and 250 µg/ft<sup>2</sup> on window sills. The Department will apply these lower thresholds to identify the presence of environmental lead hazards that must be removed in accordance with the Maine’s *Lead Poisoning Control Act* (22 MRS ch. 252).

This rule requires the continued application and enforcement of the thresholds for lead-contaminated dust that the Department had determined needed immediate implementation through emergency rulemaking to avoid a threat to public health and safety. Lower thresholds (10 µg/ft<sup>2</sup> on floors and 100 µg/ft<sup>2</sup> on window sills) are in place to identify lead hazards that are unsafe in dwellings, requiring abatement to protect children from lead poisoning, as required by the Maine *Lead Poisoning Control Act*. There is strong scientific evidence that previous standards for lead-dust hazard presented a significant risk of lead poisoning for young children exposed to these levels of lead contamination. The Department’s own published findings indicate that use of these new lower EPA dust-lead hazard standards will result in an increase in dwellings associated with lead poisoned children being identified as having hazards that must be abated (86% of inspected homes using the new standards versus

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79% using existing standards).<sup>2</sup> Use of the new standards will also result in a significant increase in floors (66% versus 38%) and window sills (53% versus 38%) identified as having dust-lead hazards that must be abated.

Additionally, the Maine Department of Environmental Protection will be undertaking rulemaking to adopt these recently updated federal dust-level hazard standards, ensuring that these related rules are consistent.

**Fiscal impact of rule:**

Costs to modify systems to reference the new dust-lead hazard standards will be minimal. The expected small-to-modest increase in staff time to provide the necessary regulatory oversight of an increase in abatement orders and inspection referrals is expected to be handled by the recent increase in Department staff, in response to the universal blood lead testing initiative.

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<sup>2</sup> Cluett R. et al., Findings of a Statewide Environmental Lead Inspection Program Targeting Homes of Children With Blood Lead Levels as Low as 5 µg/dL. *Journal of Public Health Management and Practice*. February 2019 • Volume 25, Number 1 Supp.



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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); 7 USC §2015(s)(1)-(3); 7 CFR §§ 273.11(r), 273.12, 273.17  
**Chapter number/title:** **Ch. 301**, Food Supplement Program, **FS Rule #211A** (2019 Updates to the Lottery Rule): **Sections 444-12, 666-6**  
**Filing number:** **2020-137**  
**Effective date:** 7/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of this rule is to bring the eligibility requirements for Maine's Food Supplement program in line with federal requirements articulated in the 2014 Farm Bill, PL 113-79, and the subsequent clarifying rules, 7 USC §2015 (s)(1)-(3).

Per 22 MRS §3104(16), Maine's rule disqualifies households with \$5,000 in net lottery or gambling winnings in a month. Under the new federal requirement, the disqualification also applies to households with a member or members with gross winnings from a single game that exceed the elderly and disabled asset limit (adjusted annually). This rule change adds the federal requirement to the requirement set in Maine statute.

The rule adds language to reporting requirements (consistent with federal rules) requiring households experiencing such winnings to report them by the 10<sup>th</sup> day of the following month.

**Basis statement:**

The purpose of this rule is to bring the eligibility requirements for Maine's Food Supplement program in line with federal requirements articulated in the 2014 Farm Bill, PL 113-79, and the subsequent clarifying rules, 7 USC §2015(s)(1)-(3).

Per 22 MRS §3104(16), Maine's rule disqualifies households with \$5,000 in net lottery or gambling winnings in a month. Under the new federal requirement, the disqualification also applies to households with a member or members with gross winnings from a single game that exceed the elderly and disabled asset limit (adjusted annually). This rule change adds the federal requirement to the requirement set in Maine statute.

The rule adds language to reporting requirements (consistent with federal rules) requiring households experiencing such winnings to report them by the 10<sup>th</sup> day of the following month.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

None anticipated.

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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), 7 CFR §273.18  
**Chapter number/title:** **Ch. 301**, Food Supplement Program, **FS Rule #213A: Section 777-3**, Administrative Procedures Claims and Collections  
**Filing number:** **2020-198**  
**Effective date:** 9/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The purpose of this rule is to update procedures regarding the establishment, compromise and collection of Food Supplement overpayment claims. This rule will more closely align Maine policy with that of other states in the Northeast SNAP Region.

Due to cost effectiveness, Maine will no longer establish overpayment claims equal to or less than \$200 for households still participating in the Food Supplement program or \$500 for households no longer participating in the program. Maine will now compromise unintentional household errors. Maine may compromise agency and unintentional household errors at the time the claim is established. Additionally, when calculating unintentional household errors Overpayment Specialist will now go back two years from discovery rather than six years.

**Fiscal impact of rule:**

None anticipated. The collection thresholds are being more closely aligned to the actual cost of recoupment. The result should be revenue neutral

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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; 5 MRS §8054; 7 CFR §273.9(d)  
**Chapter number/title:** **Ch. 301**, Food Supplement Program, **FS Rule #215E: Section 999-3** (Charts), FFY 2021 Budgeting Figures  
**Filing number:** **2020-213**  
**Effective date:** 10/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

This emergency rule implements annual, federally required updates to the federal poverty levels; maximum allotments; the standard, homeless and maximum shelter deductions for the Food Supplement program. As a result, Food Supplement benefits will change for some households beginning October 1, 2020. 7 CFR §273.9 requires that Food Supplement Program income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (USDA) COLA Memo FY2021 provided more generous income limits, maximum allotments, standard deductions (for most households), maximum shelter deduction, and homeless shelter deduction. The same memo showed no change in minimum allotments, the standard deductions for households of one to three members, asset limits or income change reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to remain the same using The *Consumer Price Index* published by the Bureau of Labor Statistics of the Department of Labor and were submitted to and approved by USDA.

**Findings of Emergency**

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary for the health, safety, and general welfare in order to ensure that Food Supplement benefits are issued appropriately, accurately, and in a timely fashion consistent with federal law.

An emergency rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d), which requires annual calculation of federal poverty levels, the standard deduction and standard utility allowances (SUAs).

The USDA memoranda providing these figures were not provided in a timeframe that would allow the Department to comply with the non-emergency rulemaking process and still implement by the required date of October 1, 2020. Therefore, the Department finds that an emergency rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d), which requires annual calculation of federal poverty levels, the standard deduction and SUAs. Non-compliance could result in federal penalties or loss of federal funds.

**Fiscal impact of rule:**

This rule will not have an impact on municipalities or small businesses.

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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-A  
**Chapter number/title:** **Ch. 301**, Food Supplement Program, **FS Rule #214A**  
**Filing number:** **2020-244**  
**Effective date:** 12/17/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

7 CFR 273.24 provides that no individual shall be eligible to participate in the Supplemental Nutrition Assistance Program (SNAP) as a member of any household if the individual received program benefits for more than 3 months during any 3-year period in which the individual was subject to but did not comply with the ABAWD work requirement.

PL 116-127 (*Families First Corona Virus Response Act*) §2301 suspended these requirements from April 1, 2020 through the month following the month the public health emergency (PHE) declaration by the Secretary of Health and Human Services, based on an outbreak of COVID-19 is lifted. The PHE declaration has not been lifted, as of the date of this proposed rulemaking.

The proposed rule implements the national suspension of the ABAWD requirements under the Families First Corona Virus Response Act, for the period of September 1, 2020 through September 30, 2020.

7 CFR 273.24(f) provides that, upon the request of the State agency, the Secretary may waive the applicability of the 3-month ABAWD time limit for any group of individuals in the State if the Secretary makes a determination that the geographic area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.

The proposed rule implements the July 15, 2020, ABAWD geographic state-wide waiver approval, pursuant to 7 CFR §273.24(f)(2) and Section 6(o) of the *Food and Nutrition Act of 2008*, for the period October 1, 2020 through September 30, 2021, or until the date at which the new waiver standards become effective, whichever occurs earlier. The Department's waiver request was approved by the U.S. Department of Agriculture, Food and Nutrition Service (FNS), on July 15, 2020. USDA: Able-Bodied Adults Without Dependents (ABAWD) Waiver Response, Serial Number 2190025.

In the July 15, 2020 FNS Waiver Response, FNS determined that the Department met the waiver requirement by providing a copy of the Department of Labor Trigger Notice No. 2020-17, effective May 10, 2020, showing that, state-wide, Maine qualified for extended unemployment benefits.

This rule change will enhance nutritional stability and consistency for thousands of Maine households at a time of financial and health uncertainty.

The Department is proposing to adopt this rule with a retroactive application to September 1, 2020. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

**Basis statement:**

7 CFR 273.24 provides that no individual shall be eligible to participate in the Supplemental Nutrition Assistance Program (SNAP) as a member of any household if the individual received program benefits for more than 3 months during any 3-year period in which the individual was subject to but did not comply with the ABAWD work requirement.

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PL 116-127 (*Families First Coronavirus Response Act*) §2301 suspended these requirements from April 1, 2020 through the month following the month the public health emergency (PHE) declaration by the Secretary of Health and Human Services, based on an outbreak of COVID-19 is lifted. The PHE declaration has not been lifted as of the date of this rulemaking. The current PHE is set to expire January 20, 2021, though the Secretary has authority to extend the PHE.

This rule implements the national suspension of the ABAWD requirements under the Families First Coronavirus Response Act, for the period of September 1, 2020 through September 30, 2020.

7 CFR 273.24(f) provides that, upon the request of the State agency, the Secretary may waive the applicability of the 3-month ABAWD time limit for any group of individuals in the State if the Secretary makes a determination that the geographic area in which the individuals reside has an unemployment rate of over ten percent, or does not have a sufficient number of jobs to provide employment for the individuals.

This rule implements the July 15, 2020, ABAWD geographic state-wide waiver approval, pursuant to 7 CFR §273.24(f)(2) and Section 6(o) of the *Food and Nutrition Act of 2008*, for the period October 1, 2020 through September 30, 2021, or until the date at which the new waiver standards become effective, whichever occurs earlier. The Department's waiver request was approved by the U.S. Department of Agriculture, Food and Nutrition Service (FNS), on July 15, 2020. USDA: Able-Bodied Adults Without Dependents (ABAWD) Waiver Response, Serial Number 2190025.

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This rule change will enhance nutritional stability and consistency for thousands of Maine households at a time of financial and health uncertainty.

The Department is adopting this rule with a retroactive application to September 1, 2020. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

This rule will not have an adverse impact on municipalities or small businesses.

**Fiscal impact of rule:**

More than 98% of ABAWDs receiving Food Supplement benefits in Maine receive federally funded benefits. Federal Food Supplement benefits are paid directly to merchants and do not pass through State budgets, so this will not have a direct cost to the Department.

Direct costs to the Department include the cost of rulemaking activity, and necessary technology changes such as changes to ACES (all of which are covered by the existing budget for such changes). State-funded Food Supplement benefits will have an increase of not more than \$92,538 which will be absorbed with current General Fund budgeting.

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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), (8); 3107; 7 CFR §273.9(d)  
**Chapter number/title:** **Ch. 301**, Food Supplement Program, **FS Rule #215A: Section 999-3**, Charts (FFY 2021 Budgeting Figures)  
**Filing number:** **2020-250**  
**Effective date:** 12/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

A rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d). 7 CFR §273.9 requires that Food Supplement Program income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (USDA) COLA Memo FY2021 provided more generous income limits, maximum allotments, standard deductions (for most households), maximum shelter deduction, and homeless shelter deduction. The same memo showed no change in minimum allotments, the standard deductions for households of one to three members, asset limits or income change reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to remain the same using The Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, and were submitted to and approved by USDA. Non-compliance could result in federal penalties or loss of federal funds.

The Department implemented these changes on an emergency basis on October 1, 2020, most of which were effective October 1, 2020, in Rule No. FS215E. Changes that applied to 185% FPL were effective retroactive to January 14, 2020. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

Retroactive rulemaking is necessary to keep Maine's policies in line with federal requirements, and is authorized under 22 MRS §42(8) as it benefits Food Supplement recipients and does not have an adverse financial impact on any provider, member, recipient or beneficiary.

**Basis statement:**

This rule implements annual, federally required updates to: the federal poverty levels; maximum allotments; the standard, homeless and maximum shelter deductions for the Food Supplement program as of October 1, 2020. It also implements an update to the 185% federal poverty level as of January 14, 2020. As a result, Food Supplement benefits will change for some households.

A rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d). 7 CFR §273.9 requires that Food Supplement Program income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (USDA) COLA Memo FY2021 provided more generous income limits, maximum allotments, standard deductions (for most households), maximum shelter deduction, and homeless shelter deduction. The same memo showed no change in minimum allotments, the standard deductions for households of one to three members, asset limits or income change

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reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to remain the same using The Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, and were submitted to and approved by USDA. Non-compliance could result in federal penalties or loss of federal funds.

The Department implemented these changes on an emergency basis on October 1, 2020, most of which were effective October 1, 2020, in Rule No. FS215E. Changes that applied to 185% FPL were effective retroactive to January 14, 2020. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

Retroactive rulemaking is necessary to keep Maine's policies in line with federal requirements, and is authorized under 22 MRS §42(8) as it benefits Food Supplement recipients and does not have an adverse financial impact on any provider, member, recipient or beneficiary.

This rule will not have an adverse impact on municipalities or small businesses.

**Fiscal impact of rule:**

Direct costs to the Department include the cost of rulemaking activity, and necessary technology changes such as changes to ACES (all of which are covered by the existing budget for such changes). State Funded Food Supplement benefits are estimated to cost an additional \$146,000 for Federal Fiscal Year 2021. These same changes will result in an estimated additional \$20,000,000 in federal funds flowing to Maine residents and grocers. The increase in federally funded benefits will reduce (by an indeterminate amount) the amount of TANF block grant funded food benefits issued pursuant to 22 MRS §3762(3)(B)(7-E).

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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); 22 MRS §4301 sub-§5A; 22 MRS §4308 sub-§2  
**Chapter number/title:** **Ch. 323**, Maine General Assistance Manual, **General Assistance Rule #23A** (Changes Pursuant to LD 459): **Sections II, IV, VI**  
**Filing number:** **2020-145**  
**Effective date:** 7/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule implements changes to the General Assistance (GA) program required by SP 137 – LD 459 as codified by PL 2019 ch. 515.

**Basis statement:**

This rule amends sections II, IV, and VI of the *Maine General Assistance Manual*.

SP 137 – LD 459 Section 1 amended 22 MRS §4301 sub-§5-A to include a definition of homelessness. This term was not previously defined within the Manual. This rule adopts the definition in the law.

SP 137 – LD 459 Section 2 amended 22 MRS §4308 sub-§2 to specify that “experiencing or facing homelessness” constitutes an emergency. This rule amends the definition within the Manual to more closely comport with the statutory definition.

SP 137 – LD 459 Section 3 amended 22 MRS §4309 sub-§5 to instruct municipal overseers to presume that residents of emergency shelters are eligible for General Assistance for up to 30 days. It further specifies that during the 30-day period of presumptive eligibility, no other municipality will be determined to be the municipality of responsibility. This rule adopts the conditions in the Manual and allows -- but does not require -- municipalities to deputize the shelter to make this determination.

This rule makes other adjustments to the Manual (10-144 CMR ch. 323) to more closely comport with the relevant statutory provisions. Manual Section IV (A)(1) is amended to clarify that an initial applicant cannot have applied for assistance before without regard to the time frame, consistent with §4308. Manual Section IV (D)(4)(a)(iv) is amended to more closely align the verbiage of the start date of the lump sum penalty with the language of 22 MRS §4301.

To enhance program integrity, clarification was added that a narrative statement is required any time action is taken on an application

The Department was not able to precisely determine the fiscal impact of this rule and estimates that this rule will result in an additional expenditure of \$3,900,000 to \$15,600,000 per year. 70 percent of that cost (\$2,730,000 to \$10,920,000) will be paid by the State. This expense can be absorbed by existing and carryover funds from previous years through State Fiscal Year 2021. A formal request for funding will be submitted, when needed, once additional data is available to determine the fiscal impact. 30 percent (\$1,170,000 to \$4,680,000) will be an expense for municipalities. The Department anticipates that a large portion of these funds will be paid to small businesses such as local landlords and motels.

**Fiscal impact of rule:**

The Department estimates that this rule will result in an additional expenditure of \$3,900,00 to \$15,600,000 per year. 70 percent of that cost (\$2,730,000 to \$10,920,000) will be absorbed by the State. 30 percent (\$1,170,000 to \$4,680,000) will be an expense for municipalities. The Department anticipates that a large portion of these funds will be paid to small businesses such as local landlords and motels.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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), 3762(3)(A), 3763(6), 3769-A; 5 MRS §8054  
**Chapter number/title:** **Ch. 331**, Maine Public Assistance Manual (TANF), **Rule #115E** (TANF Relationship Changes)  
**Filing number:** **2020-017**  
**Effective date:** 1/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The Temporary Assistance for Needy Families (TANF) program and its predecessor, Aid to Families with Dependent Children (AFDC), were established to provide financial support and steps to independence for families with minor children. Federal regulations (45 CFR §206) specify individuals who must be counted as part of the child's family but do not define who can be counted as part of the child's family. In the past, the state of Maine has required the individual applying on the child's behalf to demonstrate a close biological or marital relationship to the child(ren). The nature of family structure has evolved significantly in the United States since AFDC was established in 1935. Maine law allows numerous instances where non-relatives can act in the role of a parent (*in loco parentis*), and the Department is taking steps to align TANF policy with related state law and policy which recognizes such relationships.

**Findings of Emergency:**

Pursuant to 5 MRS §8054 the Department finds that emergency rulemaking is necessary to implement these changes as soon as possible given the high number of low income children placed with non-relative guardians as a result of the opioid crisis. According to the Task Force to Address the Opioid Crisis in the State Final Report December 2017 presented to the 128<sup>th</sup> Legislature:

In 2016 there were a total of 376 drug-induced deaths in Maine (a 38% increase from 2015). The indisputable effects of the opioid crisis are far-reaching and have ripple effects on families and children. The average age of overdose deaths in Maine for 2016 was 41. On a given day in 2017, 9090 Mainers were receiving some form of medication assisted drug treatment. In 2016 there were 1,024 reports regarding infants exposed to substances, constituting 8.1% of all live births in Maine. 8.5% of the general public aged 18 or older have substance use disorders.

These facts demonstrate a sudden and dramatic increase in the number of Maine residents of child bearing age, who are not able or allowed to keep their children in their homes. These children, who require safe homes, often reside with adults in their community with no biological or marital relationship to the child(ren). These families require supports that the TANF program can provide. Modification of the usual rulemaking procedures under the *Maine Administrative Procedure Act* is necessary to ensure the health and general welfare of Maine citizens, specifically low income children with non-relative legal guardians and said guardians providing their housing and care.

This rule will not have an adverse impact on municipalities or small businesses.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Fiscal impact of rule:**

Direct costs to the Department include the cost of rulemaking activity, and necessary technology changes such as changes to ACES (all of which are covered by the existing budget for such changes).

The Department estimates that this rule change may result in up to 300 additional families being eligible for TANF benefits. The current average TANF benefit is \$535.42 per family per month. If 300 families were added to TANF at the average benefit, there would be an additional expense for monthly TANF/PaS benefits to the TANF block grant of \$1,927,512 annually. These expenses aid in meeting the daily needs of the child and are generally spent at local grocery stores, clothing retailers, landlords and utility companies. Additionally, adults included in these TANF/PaS cases will work with the Additional Support for People in Retraining and Employment (ASPIRE) program. ASPIRE expenses for these families would result in an additional \$1,278,072 annual expense against the TANF block grant. These funds support the caretakers in meeting their career goals and increase the likelihood that they; not only will no longer need TANF, MaineCare, Food Supplement and other supports; but will make significant contributions to Maine's tax base.

The total annual estimated impact to Maine's federal TANF block grant is \$3,205,584.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 2019 ch. 485; PL 2019 ch. 484; 22 MRS §§ 42(1) and (8), 3762(3)(A), 3763(6), 3769-A; 5 MRS §8054; 45 CFR §§ 400.301

**Chapter number/title:** **Ch. 331**, Maine Public Assistance Manual (TANF), **Rule #114E** (Changes to Budgeting)

**Filing number:** **2020-022**

**Effective date:** 2/4/2020

**Type of rule:** Routine Technical

**Emergency rule:** Yes

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

**Basis statement:**

The Maine State Legislature enacted PL 2019 ch. 484, codified at 22 MRS §§ 3762, 3769-G, and 3788. This law was approved by the Governor on June 27, 2019 and became effective on September 19, 2019. The Maine State Legislature also enacted PL 2019 ch. 485, codified at 22 MRS §§ 3790, 3109, and 3762. This law was also approved by the Governor on June 27, 2019 and became effective on September 19, 2019.

This rule change aligns the *Maine Public Assistance Manual* with 22 MRS §3762(3)(B)(7) as amended by LD 1772 and LD 1774. This amendment requires the Department to eliminate a gross income test for TANF/PaS applicants and utilize new earnings disregards when calculating a TANF/PaS benefit.

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary to implement these changes as soon as possible. Due to the press of other business, technological challenges, and staffing issues in the Department due to a change in administrations, the Department was unable to adopt this rule prior to September 19, 2019. Therefore, the Department is adopting this emergency to apply retroactively to eligibility determinations made on or after September 19, 2019. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

Modification of the usual rulemaking procedures under the *Maine Administrative Procedure Act* is necessary to ensure the public health, safety and welfare of Maine residents. This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

The estimated fiscal impact is an increase in expenditures of \$6,133,655 per year.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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), 3762(3)(A), 3763(6), 3769-A; 5 MRS §8054  
**Chapter number/title:** **Ch. 331**, Maine Public Assistance Manual (TANF), **Rule #C19E** (Change to In-person Requirements)  
**Filing number:** **2020-053**  
**Effective date:** 3/13/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

Coronaviruses are a large family of viruses that are common in people and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people. Late in 2019 a new such virus appeared, initially on the Chinese mainland, but rapidly spreading elsewhere. This virus, typically referred to as “Novel Coronavirus,” but officially named “SARS-CoV-2,” leads to the development in humans of a new disease, “coronavirus disease 2019,” typically referred to as “COVID-19.” The precise magnitude of the risk presented by this virus in terms of its communicability and range of severity is not yet determined, but the risk is clearly substantial.

The United States Centers for Disease Control and Prevention (CDC) are still investigating how the virus spreads. The CDC reports that the COVID-19 virus is spread mainly by person-to-person contact between people who are within six feet of one another, through respiratory droplets produced when an infected person coughs or sneezes. The CDC has advised that all symptomatic community members remain home to prevent further spread of the virus. More generally, public health authorities are advising against unnecessary interactions between members of the public, especially those who might be members of vulnerable populations, such as older persons or those with certain preexisting medical conditions. The *Maine Public Assistance Manual* currently requires that a face-to-face interview be completed with each TANF application and requires all mandatory ASPIRE-TANF participants to attend an orientation. A face-to-face interview is also required at the time of annual recertification for TANF. Language has been modified through this rule change to allow for all orientation and interview activities to be completed over the telephone. This rule will allow for the continuation of services in the case of DHHS regional office closures to the public.

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary to implement these changes as soon as possible to aid in the reduction of the spread of the Novel Coronavirus, while continuing to provide TANF and ASPIRE supports to some of Maine’s most vulnerable residents. This emergency rule removes the face-to-face requirement for the application and recertification interviews for TANF and ASPIRE-TANF orientation. Removal of the face-to-face component adheres to the recommendation of the CDC to prevent the spread of the virus by avoiding person-to-person contact. Modification of the usual rulemaking procedures under the Maine Administrative Procedure Act is necessary to ensure the public health, safety and welfare of Maine residents.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**  
None anticipated.

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*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; 22 MRS §§ 42(1), 3762(3)(A), 3763(6), 3769-A; 45 CFR §400.301  
**Chapter number/title:** **Ch. 331**, Maine Public Assistance Manual (TANF), **Rule #114A** (Changes to Household and Budgeting)  
**Filing number:** **2020-098**  
**Effective date:** 4/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This rule change aligns the *Maine Public Assistance Manual* with 22 MRS §3762(3)(B)(7) as amended by LD 1772 and LD 1774; §3762-18 as amended by LD 1772; §3769-G as amended by LD 1772; and §3762(20) as amended by LD 1001. These amendments require the Department to eliminate a gross income test for TANF/PaS applicants, utilize new earnings disregards when calculating a TANF/PaS benefit, accept referrals from educational institutions as PaS applications, provide up to two million dollars annually to organizations to support whole family economic security initiatives, and end TANF/PaS denials based on a positive drug test.

This rule changes relationship requirements for TANF eligibility. These changes align TANF policy with related state law and policy which recognizes the additional relationships included in this rule.

This rule provides the figures for the increased Standard of Need and Maximum benefit for Federal Fiscal Year 2021, as required by Maine Statute. In calculating these figures, corrections were also made to the figures for the current Federal Fiscal Year.

As a result of comments, this rule incorporates the conditions under which Good Cause can be granted and the process for seeking Good Cause as it applies to ASPIRE-TANF, as detailed in HP 908 – LD 1247.

As a result of comments, requirements for face to face interaction between applicants, recipients and Department representatives were modified.

The Department also incorporated, into this rule, a number of formatting and grammatical changes. The Department made some adjustments to word choice with the intent of using terms more consistently from chapter to chapter and replaced words that may have taken on a different connotation since previous drafts. These changes increase the readability of the amended chapters.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

The total annual estimated impact to Maine's federal TANF block grant is \$15,724,709.

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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),(8); PL 116-127; 5 MRS §854  
**Chapter number/title:** **Ch. 332**, MaineCare Eligibility Manual, **MC Rule #298E: Part 9**, Limited Benefit Groups  
**Filing number:** **2020-119**  
**Effective date:** 3/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The *Families First Coronavirus Response Act* (FFCRA) HR 6201, 116 Cong. (2019-2020), PL No. 116-127 (3/18/2020), 134 STAT 178 *et seq.* specified in Division F, Section 6004(a)(3) that State Medicaid programs were authorized to create an optional coverage group to ensure services related to testing and diagnosis of COVID-19 are available in response to the pandemic, pursuant to Section 1902(a)(10)(A)(ii)(XXIII) of the *Social Security Act*, 42 USC 1396a(a)(10), as amended. This is a limited coverage benefit that is effective March 18, 2020 and ends on the last day of the month within which the federal public health emergency (PHE) ends, unless otherwise directed by CMS, even if that period exceeds 90 days, pursuant to the Governor's Executive Order 48, FY 19/20. Coverage under this group is available to individuals who are without health insurance, or whose health insurance coverage does not meet the requirements for minimum essential coverage. This rule change adopts the eligibility criteria established within the act into the *MaineCare Eligibility Manual*. This rule change will reduce barriers to COVID-19 testing and treatment, which will improve health outcomes for the specific individuals covered, and reduce the spread of this virus throughout the Maine population as a whole.

Due to the emergency nature of the legislation establishing this coverage group, the Department was unable to adopt this rule prior to March 18, 2020. Therefore, the Department is adopting this emergency rule to apply retroactively to eligibility determinations made on or after March 18, 2020. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients. Modification of the usual rulemaking procedures under the *Maine Administrative Procedure Act* is necessary to ensure the public health, safety and welfare of Maine residents.

**Findings of Emergency**

Pursuant to 5 MRS §8054, the Department finds that there exists a nation-wide public health emergency recognized within the State by declaration of the Governor. Maine Governor Janet T. Mills proclaimed a state of emergency due to COVID-19 on March 15, 2020, which was extended by further proclamation on April 14, 2020. On April 28, 2020, the Governor issued Executive Order No. 48 FY 19/20, *An Order Modifying Certain Procedural Requirements for Emergency Rulemaking to Maximize Federal COVID-19 Funding for MaineCare* (the "Executive Order"). Pursuant to 5 MRS §8054 and the Executive Order, emergency rulemaking is appropriate to respond to this crisis. Controlling the spread of that virus requires that testing for its presence in the Maine population be as widely and easily available as possible in order to identify positive cases, provide appropriate care, and track other possible infections. The speed with which the virus has spread and continues to spread makes compliance with

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

standard *Maine Administrative Procedure Act*, 5 MRS §8001 *et seq.*, protocols inconsistent with an effective response to the public health threat. The Department has determined that emergency rulemaking is necessary to avoid an immediate threat to public health, safety, and general welfare, and that this emergency rule is designed to mitigate and alleviate the threat posed by the existing lack of such readily available testing.

This rule will not have an adverse impact on municipalities or small businesses.

**Fiscal impact of rule:**

Direct costs to the Department include the cost of rulemaking activity, and training (which are covered by the existing budget for such changes). This new coverage group is 100% federally funded, so the expanded coverage will not have a direct cost to the Department.

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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)  
**Chapter number/title:** **Ch. 332**, MaineCare Eligibility Manual, **MC Rule #292A: Part 10**, Medically Needy Coverage  
**Filing number:** **2020-122**  
**Effective date:** 7/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department regularly reviews policies to ensure clarity and conformity with state and federal requirements. Clarification was added as to which categorically needy coverage groups have a correlating Medically Needy group, and which would not qualify for Medically Needy if they exceed the income or asset limits for Categorically Needy coverage. Clarification was added where the Medically Needy budgeting process differs from the Categorically Needy budgeting process. Obsolete references to asset limits were removed. Clarification was added that the household must be liable for medical expenses and those expenses must be medically necessary for them to be applicable to a deductible. Additional changes were made to formatting and word choice for readability.

**Basis statement:**

The Department regularly reviews policies to ensure clarity and conformity with state and federal requirements. Clarification was added as to which categorically needy coverage groups have a correlating Medically Needy group, and which would not qualify for Medically Needy if they exceed the income or asset limits for Categorically Needy coverage. Clarification was added where the Medically Needy budgeting process differs from the Categorically Needy budgeting process. Obsolete references to asset limits were removed. Clarification was added that the household must be liable for medical expenses and those expenses must be medically necessary for them to be applicable to a deductible. Additional changes were made to formatting and word choice for readability.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

The Department does not anticipate an adverse impact on small businesses or municipalities as no changes are being made to the meaning of the policy, only clarification is being provided. Direct costs to the Department include the cost of rulemaking activity (which is covered by existing budget for such things).



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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)  
**Chapter number/title:** **Ch. 332**, MaineCare Eligibility Manual, **MC Rule #296A** (Transitional MaineCare 2019 Changes): **Parts 2, 3**  
**Filing number:** **2020-138**  
**Effective date:** 1/1/2020 (Retroactive)  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change aligns the *MaineCare Eligibility Manual* with 22 MRS §3174-G(4) as amended by HP 1261 – LD 1774. This amendment requires the Department to provide transitional Medicaid, to individuals eligible due to increased earnings, for a twelve-month period. Previously, this assistance was provided for a six-month period with an option of two three-month extensions.

Additional changes have been made to increase the readability of the Parts in question.

**Basis statement:**

This rule change aligns the MaineCare Eligibility Manual with 22 MRS §3174-G(4) as amended by HP 1261 – LD 1774. This amendment requires the Department to provide transitional Medicaid, to individuals eligible due to increased earnings, for a twelve-month period. Previously, this assistance was provided for a six-month period with an option of two three-month extensions.

The Department has incorporated, into this rule, a number of formatting and grammatical changes. The Department made some adjustments to word choice with the intent of using terms more consistently from section to section and replaced words that may have taken on a different connotation since previous drafts. These changes increase the readability of the Parts in question.

The Department has removed some obsolete references in the Parts in question. These references caused undo confusion.

The Department removed language specific to internal processes that do not directly impact eligibility or client interactions. These changes included removing references to the job title of the individual in the department who would most often take a particular action. In addition to this level of specificity being unnecessary, it appeared to unduly restrict individuals with other titles who are capable of taking these actions from doing so, thereby impeding access to benefits and timely decisions for program applicants and recipients.

Due to the press of other business, technological challenges, and coordination with CMS; the Department was unable to adopt this rule prior to January 1, 2020. Therefore, the Department is adopting this rule with a retroactive application date of January 1, 2020. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

Direct costs to the Department include the cost of rulemaking activity, and necessary technology changes such as changes to ACES (all of which are covered by existing budget for such things).

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The increased period of coverage is anticipated to cost an additional \$6,027,264 per year with \$3,841,175 covered by federal funds and \$2,186,089 covered by state funds. Based on the premiums received July 2018 through June 2019, elimination of the premiums is anticipated to result in a \$448,312 reduction in annual revenue, \$285,709 of which would have been passed to the federal government, and \$162,603 is a loss in revenue to the state.

The Department anticipates a total direct expense to the state of \$2,348,692 per year.

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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), 254-D(4)(D), 254-D(7), 258(7); PL 2019 ch. 343

**Chapter numbers/titles:** **Ch. 332:** MaineCare Eligibility Manual, **MC Rule #293A** (MSP and DEL Income Limit Changes): **Part 8**, Medicare Savings Program (Buy-In)  
**Ch. 333:** Low Cost Drugs for the Elderly and Disabled (DEL), **MC Rule #293A** (MSP and DEL Income Limit Changes)

**Filing numbers:** **2020-174, 175**

**Effective dates:** Ch. 332: 2/1/2020 (*Retroactive*)  
Ch. 333: 7/1/2019 (*Retroactive*)

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking expands eligibility by increasing income thresholds for beneficiaries in the *MaineCare Eligibility Manual*, Part 8, “Medicare Savings Program (Buy-in)”, 10-144 CMR ch. 332, consistent with legislative appropriations in PL 2019 ch. 343 and approval from the Centers for Medicare and Medicaid Services (CMS). In addition, the Department has incorporated into this rule a number of formatting and grammatical changes. The Department is adopting this rule retroactive to February 1, 2020, as approved by CMS, and as authorized in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

This rulemaking also expands eligibility by increasing income thresholds in the Low Cost Drugs for the Elderly and Disabled (DEL) rule, 10-144 CMR ch. 333, consistent with legislative appropriations in PL 2019 ch. 343 and resulting statutory changes in 22 MRS §254-D(4)(D). The Department is adopting this rule retroactive to July 1, 2019 as required by law and consistent with 22 MRS §42(8).

**Basis statement:**

The Department of Health and Human Services (Department) is adopting changes to two rules through this rulemaking.

First, the Department is amending the *MaineCare Eligibility Manual*, Part 8, “Medicare Savings Program (Buy-In)”, 10-144 CMR ch. 332, to increase the income thresholds for the various Medicare Savings Program (MSP) benefits. The Department has sought and received approval from the Centers for Medicare and Medicaid Services (CMS) for these income changes retroactive to February 1, 2020. The retroactive application of this rule is further authorized under 22 MRS §42(8) because it provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients. In addition, the Department has incorporated into this rule a number of formatting and grammatical changes for the sake of clarity.

Second, the Department is adopting changes to the *Low Cost Drugs for the Elderly and Disabled (DEL)* rule, 10-144 CMR ch. 333, to align with changes to 22 MRS §254-D(4)(D) as amended by Part ZZ of PL 2019 ch. 343, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2019, June 30, 2020, and June 30, 2021* (effective June 17,

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

2019). The legislation increased the income threshold for the DEL program and these increases are now adopted in rule retroactive to July 1, 2019 consistent with the legislation and with the Department's authority at 22 MRS §42(8).

For both adopted rules, the Department has made changes to the rule proposals as the result of public comment, internal Department review, and in consultation with the Office of the Attorney General. 5 MRS §8052(5). The Department has discovered that anticipated changes setting forth the MSP income threshold levels in statute were not incorporated in the final enacted legislation, and thus never implemented in 22 MRS §3174-G as previously assumed. In addition, the Department has determined that the changes to the DEL rule should be retroactive to July 1, 2019 in line with the allocations and statutory changes resulting from PL 2019 ch. 343. Setting effective dates earlier than listed in the proposed rulemaking documents benefits beneficiaries and recipients and does not adversely impact providers.

Finally, these changes to the MSP and DEL rules will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

The Department does not anticipate an adverse impact on small businesses or municipalities. Direct costs to the Department include the cost of rulemaking activity and necessary technology changes (which are covered by existing budget for such things). Benefits issued under the rule will have an anticipated cost of \$49,494,733 for state fiscal year 2021. \$30,216,034 of that cost will be federally funded. \$19,278,699 will be state funded. The cost is estimated to increase each year as Part B premiums increase and the state population continues to age.

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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); 19-A MRS §2103(3-A); *Social Security Act*, Section 454(6)(B)(ii)

**Chapter number/title:** **Ch. 351**, Maine Child Support Enforcement Manual: **ch. 4**, Fees (Annual Service Fee for Obligees)

**Filing number:** **2020-179**

**Effective date:** 8/18/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

To meet mandatory federal requirements and state statutory requirements to adjust the annual service fee for obligees.

**Basis statement:**

*(See Principal Reason).*

**Fiscal impact of rule:**

We do not anticipate that the adopted rule will cost the state additional money. The proposal will increase revenue to the state, however, a firm figure is not known. This is because we cannot say exactly how many clients will be subject to the fee each year as we never know how many obligors will meet the \$550.00 threshold. This said, an estimate may be made using historical figures. For state fiscal year 2018, a service fee was paid in 7,248 cases. An increase of \$10 per case would have resulted in total additional revenue of \$72,480.00, or \$47,836.80 for the federal government and \$24,643.20 for the state.

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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), 3785-A; 45 CFR 261.62, 400.301; Resolves 2019 ch. 67  
**Chapter number/title:** **Ch. 607**, APRIRE-TANF Program: **ASPIRE Rule #27A** (Good Cause), **Section 4**  
**Filing number:** **2020-146**  
**Effective date:** 7/20/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This change is in response to Resolves 2019 ch. 67, approved by the Governor on June 13, 2019, regarding the TANF-ASPIRE Good Cause and sanction process. Pursuant to HP 908-LD 1247, the Resolve directed the Department to amend the TANF and ASPIRE-TANF program rules regarding good cause and sanctions. The changes made here, particularly to Section 4 (III), are in response to, and accordance with, those directives.

The rule also implements changes to Maine's Work Verification Plan dated September 30, 2019, to incorporate basic skills activities, including English for Speakers of Other Languages (ESOL), Adult Basic Education (ABE), General Education Diploma (GED), and High School Equivalency (HSE), into vocational educational training.

This rule will not have an impact on municipalities or small businesses.

**Fiscal impact of rule:**

Unable to be determined. However, if additional individuals are determined to have good cause for failing a program requirement and could remain in the program, it could increase program costs.

Changes to Vocational Education Training activities will allow more participants to meet federal work requirements, reducing the risk of federal penalties.

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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), 3762(3)(A), 3769-A  
**Chapter number/title:** **Ch. 607**, APRIRE-TANF Program: **ASPIRE Rule #26A** (Support Services Changes), **Sections 1, 11, 14**  
**Filing number:** **2020-199**  
**Effective date:** 9/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule increases travel reimbursement for ASPIRE participants to support their ability to engage in required work activities and is reflective of current travel related costs. Reference to repealed TANF deprivation policy was removed.

**Basis statement:**

**Section 1 (Definitions and Descriptions)**

The definition of “UP (Unemployed Parent), was deleted. This definition has not been relevant since deprivation was removed as a TANF requirement as part of Adopted Rule Number 2017-198.

**Section 11 (Work Activity Services)**

**Sec. I(M)** deleted the reference to unemployed parents. These references have not been relevant since deprivation was removed as a TANF requirement as part of Adopted Rule Number 2017-198.

**Section 14 (Support Service Benefits and Payment Provisions)**

**Sec. II(B).** The general mileage rate was increased from \$ .30/mile to \$ .44/mile and the weekly dollar amount cap limit was raised from \$120/week to \$140/week as part of the proposed rule to keep a consistent amount with other OFI employment and training programs at the time of proposal. In the adopted rule the mileage rate has been increased to \$.45/mile, which is consistent with the mileage rate utilized in the State of Maine/Maine Service Employee’s Association (MSEA) collective bargaining agreement. See: <https://www.maine.gov/osc/travel/mileage-other-info> .

**Sec. II(B).** In the final rule, the Department decided to not adopt the proposed elimination of a special mileage rate of \$.45/mile for ASPIRE participants who are disabled and who operate their own personal wheelchair lift or other specially equipped vehicle during the course of allowed ASPIRE activities. In response to a Rule Comment, this final rule keeps the special mileage for these individuals. Additionally, the final rule increased the rate to \$.55/mile. The rate is consistent with Maine’s standard mileage reimbursement rate paid by the State Controller and published by DAFS at <https://www.maine.gov/osc/travel/mileage-other-info> for Maine State Employees covered under the contract established by MSEA.

**Sec. II(C)(1) (Auto Repairs).** The final rule broadened the scope of vehicles for which ASPIRE will pay repairs to include vehicles registered to specified relatives who have a valid license to operate a motor vehicle in Maine, if they reside in the home of the ASPIRE participant, and who would be included in the TANF grant if otherwise eligible. The added language ensures that the automobile being repaired has a licensed operator in the home. There are other support services that can assist with license attainment for ASPIRE participants if needed.

**Sec. II(D) (Auto Liability Insurance).** The final rule increased the reimbursement for auto insurance from \$300 to \$600 per calendar year and includes the requirement that the

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participant must have a valid Maine driver's license. The department finds that an increase in the maximum amount of auto insurance paid per calendar year is reflective of current insurance expenses and is consistent with other Office for Family Independence programs.

**Sec. II(K) (Relocation Costs).** The general mileage rate was increased from \$ .30/mile to \$ .44/mile and the weekly dollar amount cap limit was raised from \$120/week to \$140/week as part of the proposed rule to keep a consistent amount with other OFI employment and training programs at the time of proposal. In the adopted rule the mileage rate has been increased to \$.45/mile, which is consistent with the mileage rate utilized in the State of Maine/Maine Service Employee's Association (MSEA) collective bargaining agreement. See: <https://www.maine.gov/osc/travel/mileage-other-info> .

This rule will not have an adverse impact on municipalities or small businesses.

**Fiscal impact of rule:**

The estimated fiscal impact is an increase in expenditures of \$741,023, including \$624,623 for mileage reimbursement and \$116,400 for the increased liability insurance cap.



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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); 7 CFR §273.7  
**Chapter number/title:** **Ch. 609**, Food Supplement – Employment and Training (FSET) Program Rules (FSET Rule #FSET4A) (*Repeal and replace*)  
**Filing number:** **2020-200**  
**Effective date:** 10/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department has redesigned its Food Supplement Employment and Training (FSET) Program, based on federal technical assistance. The new model has moved away from having Maine Department of Labor deliver FSET services to a model used by many other states whereby the Department contracts directly with community-based organizations and educational institutions that deliver employment and training. These providers must follow federal guidelines for SNAP Employment and Training. This repeal and replace rulemaking governs Maine's FSET program.

This new rule provides as follows:

- 1) Clarifies that FSET services are delivered by contracted providers who must deliver service components that meet federal standards;
- 2) Lays out the operating procedures including participant, contractor and Department responsibilities;
- 3) Provide a more complete and detailed list of available services and supports;
- 4) Identify priority target groups;
- 5) Section 8(I) (Support Service Limits) sets annual support service limits for participants;

After reviewing Comments, and receiving advice from the Office of Attorney General, the Department made these changes in the adopted rule:

- 1) The Department added additional language to Section 11(II) (Administrative Hearings), clarifying what Department actions and determinations can be appealed, and when the request for administrative hearing must be made. The Department added the citation for the *Food Supplement Program Rule*, 10-144 ch. 301, as this rule incorporates the Administrative Hearing process from Section FS 777-1 of that rule.
- 2) The adopted rule also modifies the FSET program, from a mandatory program to an entirely voluntary program. The proposed rule proposed a mandatory/voluntary program. Both commenters (Maine Equal Justice and Preble Street) expressed concern with a mandatory program, pointing to national studies which indicate that voluntary programs for vocational training or work experience yield more engaged participants with stronger outcomes. The Department agrees with the commenters, and is making this change in the adopted rule, to make the FSET program a voluntary program. The Department considers this to be a beneficial change for all participants.

This rule will not have an adverse impact on municipalities or small businesses.

**Fiscal impact of rule:**  
None anticipated.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention, Office of Data, Research, and Vital Statistics**

**Umbrella-Unit:** **10-146**

**Statutory authority:** 22 MRS §2140

**Chapter number/title:** **Ch. 15, Death with Dignity Act Reporting Rule** (*New*)

**Filing number:** **2020-173**

**Effective date:** 8/30/2020

**Type of rule:** Major Substantive

**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department is adopting this rule to comply with the *Maine Death with Dignity Act* (“Act”), 22 MRS §2140, to exercise its authority to collect certain data from healthcare providers related to patient-directed care at the end of life, and to establish criteria for witnesses to written requests for life-ending medications made by patients who reside at long-term care facilities. This major substantive rule duplicates the existing *Death with Dignity Act* Reporting emergency rule, which became effective September 19, 2019 pursuant to 5 MRS §§ 8054 and 8073, with some minor revisions. The Department intends for the course of this rulemaking – including proposal, provisional adoption, legislative review, and final adoption – to coincide with the expiration of the existing emergency rule, to ensure continuity and avoid potential delay in the established processes under the Act.

**Basis statement:**

The Department finally adopts this major substantive rule, to comply with PL 2019 ch. 271 (*An Act to Enact the Maine Death with Dignity Act*), as codified in 22 MRS §2140, which directed the Department to adopt major substantive rules to facilitate the collection of information regarding compliance with the *Maine Death with Dignity Act*. 22 MRS §2140(17).

On September 19, 2019, in compliance with PL 2019 ch. 271 – and in accordance with Governor Mills’ June 12, 2019 Executive Order No 9 FY 19/20 (“An Order Implementing the *Death with Dignity Act*”) - the Department adopted an emergency major substantive rule. As required by the *Maine Administrative Procedure Act*, the Department proceeded with rule-making procedures, and on January 13, 2020, the Department filed the provisionally adopted major substantive rule with the Secretary of State. At the same time the Department submitted the rule to the Maine Legislature for its review and authorization for final adoption. The Maine Legislature authorized the final adoption of the provisionally adopted rule, with no changes, in a nonemergency Resolve (Resolves 2019 ch. 130).

Resolves 2019, ch. 130 was approved by the Governor on March 18, 2020, and became effective on June 16, 2020. 5 MRS §8072(8) provides that this final major substantive rule will become effective 30 days after filing with the Secretary of State. The Department filed this rule with the Secretary of State on July 31, 2020, and therefore it will become effective on August 30, 2020. In accordance with 5 MRS §8073, the September 19, 2019 emergency major substantive rule remains in effect until August 30, 2020.

The underlying legislation establishes criteria for when a physician may prescribe medication to certain qualified patients for the purpose of the patient self-administering the medication to end the patient’s life in a humane and dignified manner. (22 MRS §2140.) In addition to setting forth numerous requirements for the patient, the attending physician, other healthcare providers and others, the law requires the Department to collect and review documentation related to patient-directed care at the end of life for compliance purposes and

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for use in compiling an annual report to the Legislature. *Id.* §2140(17). The Department is also tasked with establishing criteria for one of the two witnesses to the patient's written request for medication if the patient is residing at a long-term care facility. *Id.* §2140(5)(E). To meet these requirements, this major substantive rule sets forth protocol for healthcare providers involved in patient end-of-life decisions to produce documentation and information to the Department, describes the data to be collected through Department-generated forms, and advises providers on reporting deadlines.

This final rule provides clarification for reporting purposes and eliminates the requirement in the emergency rule for physicians to report at 6 months when the death of qualified patient has not been confirmed. Additionally, this finally adopted major substantive rule ensures that concerns outlined in the Governor's Executive Order about the implementation of the Act are addressed by providing, through major substantive rulemaking, guidance to healthcare providers so as to help reduce the potential for abuse. Consistent with the Executive Order, the rule also contemplates that the Department will act within the scope of its authority to collect additional data not prescribed in the Act, to ensure provider compliance and to aid in the Department's production of a useful and meaningful statistical report that monitors the impact of the Act.

**Fiscal impact of rule:**

No significant fiscal impact expected.

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**Agency name:** Department of Health and Human Services, **Maine Center for Disease Control and Prevention, Office of Data, Research, and Vital Statistics**

**Umbrella-Unit:** **10-146**

**Statutory authority:** 22 MRS §2705

**Chapter number/title:** **Ch. 16**, Gender Marker on Birth Record Rule (*New*)

**Filing number:** **2020-154**

**Effective date:** 7/13/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

Pursuant to 22 MRS §2705, this rule permits the Department to issue a new birth record with the appropriate gender marker and given names without a court order for the purpose of aligning with the registrant's gender identity. Consistent with changes at the State level and nationally, this rule expands the available gender markers on vital records to include nonbinary. This rule requires that requests for the issuance of a new record for the purpose of aligning with the registrant's gender identity be completed in the manner and form prescribed by the Department. The requirements proposed in this rule are to ensure that any request for a new birth record falls within the scope of the Department's authority and this rule to prevent potential system fraud and abuse. This proposed rule promotes consistency in State identity documents and protects the privacy of individuals requesting new birth records that align with their gender identity.

**Basis statement:**

The adoption of this rule by the Department of Health and Human Services ("Department") establishes administrative processes within the Maine CDC Office of Data, Research and Vital Statistics (DRVS) for designating X as the gender marker on a birth record at birth and for issuing a new birth record with changes requested specifically to align with gender identity.

This rule provides for an additional gender marker option (X) that is not exclusively male or female that may be designated on a birth record at birth. Additionally, a registrant or a minor registrant's legal guardian may request a change to the assigned gender marker and to be issued a new birth record to align with gender identity. The applicant may request a change to the first and middle name on a birth record at the time of requesting a new birth record with the appropriate gender marker change. This rule requires that requests for a new birth record be notarized and completed in the manner and form prescribed by the Department.

This rule permits the Department to issue a new birth record without a court order when changes are made to the birth record for the purpose of aligning with the registrant's gender identity. The rule requires assurances before the Department may issue a new birth record for a registrant who is a minor. Notarized requests for changes to a minor's birth record must include the signature of a licensed physician or licensed mental health care provider who, within the scope of their license and through a bona fide patient-provider relationship, affirms that the requested gender marker is consistent with the minor's gender identity. Written consent of both parents/guardians is required, unless this requirement is waived upon showing of good cause when one parent is absent.

The final rule provides for an administrative hearing procedure for an aggrieved person to appeal an adverse decision issued by the Department, prior to appealing to the courts. This

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rule states that, if there is a conflict with another rule administered by DRVS, this rule applies.

10-146 CMR ch. 16, *Gender Marker Gender Marker on Birth Record Rule*, promotes consistency in State identity documents and protects the privacy of individuals requesting new birth records that align with their gender identity. This rule is consistent with changes in policy and practice at the State and federal levels to recognize “X” as a gender marker that is not exclusively male or female; X includes nonbinary, intersex and unspecified for use on birth records.

**Fiscal impact of rule:**

The Department may anticipate nominal costs associated with any needed modifications to its vital record data system to accommodate the addition of the nonbinary gender marker. Requests under this rule are subject to fees in accordance with the *Vital Records Fees Rule* at 10-146 CMR ch. 7.

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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(8), 3174-Z, 4062; 5 MRS §8073  
**Chapter number/title:** **Ch. 21**, Rules for the Provision of Payments for Residential Programs Serving Children  
**Filing number:** **2020-092**  
**Effective date:** 4/10/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

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

**Basis statement:**

Coronaviruses are a large family of viruses that are common in people and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people. Late in 2019, a new such virus appeared, initially on the Chinese mainland, but rapidly spreading elsewhere. This virus, typically referred to as "Novel Coronavirus," but officially named "SARS-Co V-2," has led to the development in humans of a new disease, "coronavirus disease 2019," typically referred to as "COVID-19." On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic.

The United States Centers for Disease Control and Prevention (CDC) is still investigating how the virus spreads. The CDC reports that the COVID-19 virus is spread mainly by person-to-person contact between people who are within six feet of one another, through respiratory droplets produced when an infected person coughs or sneezes, and has therefore advised that anyone exhibiting symptoms remain isolated to avoid infecting others. Anyone with symptoms is encouraged to stay home, by both the CDC as well as Maine officials, to slow the spread of the COVID-19 coronavirus. The CDC is also recommending cleaning and disinfecting frequently touched surfaces often. On March 15, 2020, as a result of the spread of the COVID-19 coronavirus in Maine, Governor Janet Mills declared a state of civil emergency by proclamation pursuant to 37-B MRS §742(1)(A). Pursuant to 22 MRS §743, this state of emergency continues for thirty days unless terminated earlier and may be renewed by the Governor.

Pursuant to 10-144 CMR Ch. 101 (the *MaineCare Benefits Manual*) ch. II and III Section 97 ("Private Non-Medical Institutions", or "PNMI", Services), PNMIs provide Medicaid services to various populations in Maine. Here, Section 97 Appendix D, govern the PNMIs providing residential treatment to children statewide. However, Medicaid does not reimburse for room and board, thus the state makes payments to PNMI providers to cover some of these costs. The proliferation of the COVID-19 coronavirus has created a number of challenges for PNMIs, which are an essential service in Maine as they are providing care and treatment for hundreds of children statewide. Challenges include:

- The temporary cessation of all classroom instruction statewide. This change has significantly altered the structure of PNMI providers' programming as children are no longer attending school during the day and additional daytime staffing is needed within the programs.
- The need to assure adequate staffing levels for children who need to be separated from the normal milieu due to suspected or confirmed COVID-19.
- The need to assure adequate staffing levels if members of a provider's staff are absent due to suspected or confirmed COVID-19.

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- The cost of Personal Protective Equipment (PPE) to ensure the safety of staff and children.
- The cost to increase the frequency and intensity of cleaning within the program and ensure areas are regularly sanitized.
- The need to assure adequate staffing to complete regular screening of children and staff for COVID-19 symptoms throughout the day.
- The need to furnish adequate employee compensation necessary to hire and retain qualified staff.

Other industries deemed essential during the current pandemic have begun increasing pay for their staff to compensate for the risk of contracting COVID-19.

The current rate for providers governed by this rule is a Standard Room and Board Rate of \$54.45 per occupied bed day. This rate is not in the rule. In this emergency rulemaking, the Department increases the Standard Room and Board Rate by \$54.55 to \$109.00 per occupied bed day, retroactive to March 1, 2020 and continuing until May 31, 2020.

Pursuant to 5 MRS §8073, the Department finds that emergency rulemaking is necessary to implement this change as soon as possible to ensure that Maine's PNMI providers providing residential programs serving children have sufficient resources to meet the challenges stemming from the COVID-19 coronavirus, and to continue to provide services for hundreds of children in Maine. Without this rate increase, Maine's PNMI providers may soon lack the financial resources to sustain operations, putting Maine children at risk. Emergency procedures are needed to establish this rate immediately because children's PNMI providers are already facing extreme, unanticipated financial threats to their continued operation as a result of the COVID-19 situation, detailed above. The Department is making the rate increase retroactive to March 1, 2020. This retroactive application is authorized by 22 MRS §42(8), as it provides a financial benefit to the providers.

Emergency major substantive rules are effective for up to one year, pursuant to 5 MRS §8072. The Department shall implement these changes permanently through separate major substantive rulemaking, per 5 MRS §8071.

**Fiscal impact of rule:**

\$1.1 million.

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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(1), 8302-A(1)(J),(2)(K); 5 MRS §8073; 42 USC §9858f(b)  
**Chapter number/title:** **Ch. 34**, Child Care Provider Background Check Licensing Rule  
*(New)*  
**Filing number:** **2020-210**  
**Effective date:** 9/25/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

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

**Basis statement:**

The Department of Health and Human Services (the “Department”) adopts this Emergency Major Substantive Rule, 10-148 CMR ch. 34, *Child Care Provider Background Check Licensing Rule*, on the basis that immediate adoption of the rule is necessary to avoid an immediate threat to public health, safety, and general welfare as outlined below.

Currently, the background check requirements for licensed child care providers are included in the licensing rules for those providers: 10-148 CMR ch. 32, §§ 2.21 and 11.2.3.7 (*Rules for the Licensing of Child Care Facilities*); 10-144 CMR ch. 33, §§ 2(A)(4)(e) and 6(A)-(I) (*Family Child Care Provider Licensing Rule*); 10-148 CMR ch. 36 §§ III(U) and XIII(A)(3)(g); these provisions are repealed through the instant emergency major substantive rulemaking. In the event of conflict between the *Child Care Provider Background Check Licensing Rule* and any other provisions of the licensing rules for child care providers, the terms of this rule supersede such other rules and shall apply.

These provisions add requirements to pre-employment and pre-licensure comprehensive background checks. The policy rationale is to provide greater protection for Maine children receiving child care from licensed child care providers and to comply with statutory requirements set forth in 22 MRS §8302-A 9(1)(J)(2)(K) and 42 U.S.C. §9858f(b). New requirements include:

- Mandatory fingerprinting with search of the Federal Bureau of Investigation (FBI) and State Bureau of Identification (SBI) as well as, the National Crime Information Center (NCIC) National Sex Offender Registry.
- Searching state criminal repositories, state child abuse and neglect registries/databases and state sex offender registries in each state where the individual has resided in the previous five years.
- Prescribing specific disqualifying offenses in which an individual is deemed eligible or ineligible.
- Individuals required to receive a qualifying result pursuant to a comprehensive background check as provided for in the Child Care Provider Background Check Licensing Rule now include: all current and prospective staff members, all adult household members in a family child care, and any other individual whose activities involve the care or supervision of children or who has unsupervised access to children.



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**FINDINGS OF EMERGENCY**

Pursuant to 5 MRS §8073, the Department has determined that immediate adoption of this rule is necessary to avoid an immediate threat to public health, safety and general welfare. The expansion of the comprehensive background check process will provide necessary protection to children who receive child care from licensed child care providers. The Department has determined that these protections must be established through emergency rulemaking to protect children receiving care from licensed child care providers from an immediate risk of abuse, neglect or exploitation. This is the primary cause of the emergency found by the Department.

Additionally, the comprehensive background check process established through this emergency rulemaking is required by federal and state law. 42 USC §9858f(b) and 22 MRS §8302-A(1)(J)(2)(K). Maine will receive a financial penalty of approximately \$800,000.00 from the federal Child Care and Development Block Grant if the additional components of the comprehensive background check established in this emergency rule are not effective by October 1, 2020. See 42 USC §9858f(j)(2)(3). Avoidance of this penalty is another ground for implementing this rule on an emergency basis, particularly in light of the financial difficulties faced by the state due to the COVID pandemic.

Emergency major substantive rules are effective for up to one year or until the Legislature has completed its review, pursuant to 5 MRS §80732. The Department shall implement these changes permanently through separate major substantive rulemaking, per 5 MRS §8071.

**Fiscal impact of rule:**

22 MRS §8302-A sub-§3 requires that fees for criminal background checks must be paid by the Department from the funds available under the federal *Child Care Development Block Grant Act of 1990* as amended by the federal *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Public Law 104-193, 110 Stat. 2105. The fees for the criminal background checks reimbursed under this subsection may not exceed the actual costs for processing and administration.

The financial impact to the Child Care Development Block Grant due to fingerprint-based background checks will be driven by the number of staff members employed by the provider, and other adults who may have unsupervised access to children in care. For the first year the Department estimates 10,000 fingerprint-based background checks will be completed at \$54 per fingerprint equating to a first year annual cost to the Child Care Development Block Grant of \$540,000. Ongoing the Department estimates 3,000 fingerprint-based background checks annualized at \$162,000.

Fingerprint-based background checks are valid for five years and will be provided at no cost to the individual or provider.

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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 §4008(6)(d)  
**Chapter number/title:** **Ch. 202**, Child Protective Central Case Record Research Fee  
**Filing number:** **2020-251**  
**Effective date:** 12/23/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The Department adopts this rule to change the fee charged for Child Protective background Checks from \$15.00 to \$13.00. The current fee for a child protective background check is \$15.00. The Department is in the process of developing an InforME portal for the processing of requests for these background checks. InforME charges a \$2.00 per transaction service fee. To ensure there is no rate increase when the Department begins using InforME to receive and process requests for child protective background checks, the adopted rulemaking would reduce the fee to \$13.00 to insure the implementation of the InforME portal is revenue neutral for providers.

**Fiscal impact of rule:**

There is an estimated decrease in General Fund revenue of \$50,638 and no corresponding decrease in General Fund expenditures. The \$2.00 will be paid directly to InforME for the development and maintenance costs of the electronic portal and the Department will not be responsible for paying those costs to InforME).



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, **Bureau of Labor Standards**  
**Umbrella-Unit:** **12-170**  
**Statutory authority:** 26 MRS §§ 42, 637  
**Chapter number/title:** **Ch. 18** (*New*), Rules Governing Earned Paid Leave  
**Filing number:** **2020-203**  
**Effective date:** 1/1/2021  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Department of Labor, Bureau of Labor Standards is responsible for drafting and implementing rules of this law. Therefore, the Department is adopting this rule pursuant to 26 MRS §637. This chapter provides definitions and procedures for implementing earned paid leave for specific employees.

**Basis statement:**

The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637. This rule explains that the obligation for earned paid leave applies to employers that employ more than 10 employees in employment as defined by the *Maine Employment Security Act* for more than 120 days in any calendar year. The rule explains the coverage of the law, to include full-time, part-time and per diem workers. The rule explains the exceptions, such as employees who work in a seasonal industry for an employer registered as a seasonal employer with a Bureau of Unemployment Compensation, and employees covered by a collective bargaining agreement on January 1, 2021. Covered employers shall permit each employee to accrue earned paid leave based on the employee's base rate of pay as defined by existing law, 26 MRS §664(3). Unused hours of earned paid leave roll over to the following year of employment, but hours are only required to continue to accrue up to forty hours in the current year of employment. The balance of earned paid leave at the separation of employment is governed by the employer's established practice in accordance with existing law, 26 MRS §626. An employer may require up to four weeks' notice of an intention to use earned leave, but notice is not required for an emergency, illness or other sudden necessity if advance notice is not feasible. Employees may take leave in increments of at least one hour. The employer cannot require the employee to use earned paid leave when the employee closes the business, cancels a shift or otherwise causes the employee to be unable to perform their job. An employer shall not deny an employee the right to use earned paid leave, and such denial or other violation is subject to a penalty.

**Fiscal impact of rule:** N/A

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, Bureau of Labor Standards, **Board of Occupational Safety and Health**  
**Umbrella-Unit:** **12-179**  
**Statutory authority:** 26 MRS §565  
**Chapter number/title:** **Ch. 2**, Occupational Safety and Health Standards for General Industry Employment in the Public Sector  
**Filing number:** **2020-253**  
**Effective date:** 12/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To update the rule to incorporate changes to the Federal Occupational Safety and Health Administration regulations, 29 CFR part 1910, including modifications to silica and beryllium standards.

**Basis statement:**

(See Principal Reason)

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, Bureau of Labor Standards, **Board of Occupational Safety and Health**  
**Umbrella-Unit:** **12-179**  
**Statutory authority:** 26 MRS §565  
**Chapter number/title:** **Ch. 3**, Occupational Safety and Health Standards for Construction Industry Employment in the Public Sector  
**Filing number:** **2020-056**  
**Effective date:** 3/22/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The purpose of this chapter is to incorporate by reference certain rules governing Occupational Safety and Health in construction industry employment as promulgated by the Federal Occupational Safety and Health Administration at 29 CFR part 1926 as most recently amended as of December 5, 2019.

**Fiscal impact of rule:**  
*(No response)*

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 MRS §968(3)  
**Chapter number/title:** **Ch. 10**, General Rules  
**Filing number:** **2020-034**  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change is intended to improve the efficiency of the agency's processing of petitions and complaints filed by public sector employees, unions and employers through the mandated use of electronic filing to a designated email address. This change will also improve the ease with which parties may file petitions and complaints with the agency. The rule changes would also allow for service of documents on parties through email, provided that traditional service occurs on the same day, to further improve efficiency of the process through electronic means. The Board has changed its rules around the procurement of official transcripts in order to reflect its intention to outsource transcribing service to a private court reporter service. The rule change also eliminates reference to the *Agricultural Employees Labor Relations Act*, which was repealed in 2012, and corrects erroneous statutory citations.

**Basis statement:**

This rulemaking of the Maine Labor Relations Board is authorized by 26 MRS §968(3). The Board met and formally approved proposed rule changes on December 6, 2019. A public rulemaking hearing was held in Room 334 of the State House in Augusta on January 29, 2020. The Board met and formally adopted the rules on February 28, 2020. The rule changes will go into effect on April 1, 2020.

The Board has not updated its rules in approximately 20 years. Since that time, citizens have come to increasingly rely on electronic means to communicate and to receive information. The rule changes put forward by the Board attempt to accommodate that reality and, in the process, streamline the Board's processes for the benefit of parties engaging in Board-administered business as well as for the benefit of the agency itself. Electronic filing of documents is now common for most, if not all, state labor relations agencies and their federal counterparts. The Board reviewed several of these models for electronification but decided to base its system on that of New Hampshire's Public Employee Labor Relations Board. This model consists of a designated email address (in Maine's case [mlrb@maine.gov](mailto:mlrb@maine.gov)) to which documents are submitted. Given the simplicity of this method, the low implementation cost and its ease of use for the parties, the Board concluded this was the best way to move its operations further into the digital sphere, given budget constraints and the current level of filings. Several other changes in the rules are intended to complement the Board's attempt at streamlining this electronic filing system and encouraging electronic communication. One change the Board had hoped to make in this area was partially thwarted due to a statutory complication. A provision of the *Maine Administrative Procedure Act* requires that service of documents between parties in an adjudicatory proceeding must take place by either mail or hand delivery. Service of documents by email therefore, though preferred by the Board, may not serve as sole service in such cases. The Board complies with this restriction in its rules, while also encouraging electronic service, by allowing parties to effectuate service by email provided that service by traditional means happens on the same day.

Another major impetus for the rule changes is the need to implement a recent amendment to the Municipal Employees Labor Relations Law enacted by Public Law 2019

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

ch. 135. This law put into place a new process for employee bargaining units to determine their bargaining agent representative without the need for a secret ballot election. Under this "majority sign-up" process, once a majority of the employees in an unrepresented bargaining unit sign authorization cards designating a particular organization as the unit's exclusive bargaining agent, the Board will certify that organization as such.

The Board decided to amend its rules to clarify the Board's position as to reliance on attachments included with prohibited practice complaints. The Board also intended with these rule changes to clarify when a complaint may be amended, and to consolidate into one window of time an employer's initial response to a complaint. Together these changes will hopefully result in a lower rate of deficient filings and a reduced time frame for the resolution of prohibited practice cases filed with the Board.

The rule changes setting the estimated parties' share of mediation service costs serves to streamline the initiation of mediation services by eliminating a bureaucratic step in the process. The Board's recent challenges in maintaining a viable list of individuals for providing private fact-finding services is the basis for removing the rule-based restriction on otherwise eligible individuals who are employees or subcontractors of public management associations or public employee associations. The vast majority of the minor, miscellaneous rule changes made simply reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board.

**Fiscal impact of rule:**

This adoption will not have a significant fiscal impact on the agency or members of the regulated community.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 MRS §968(3)  
**Chapter number/title:** **Ch. 11**, Bargaining Unit Composition and Representation Matters  
**Filing number:** **2020-035**  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change makes changes necessary to implement Public Law 2019 ch.135, which allows for a new process to designate a collective bargaining agent under the *Municipal Public Employees Labor Relations Law*. It also makes changes in order to improve the efficiency of the agency's processing of petitions and complaints filed by public sector employees, unions and employers through the mandated use of electronic filing to a designated email address. Other rule changes allow for similar efficiency gains through electronic communication by eliminating the requirement to have a petition signed before notary public and the Board's obligation to post documents on a physical bulletin board. The Board has changed its rules around the procurement of official transcripts in order to reflect its intention to outsource transcribing services to a private court reporter service, and proposes to streamline the election process by providing, in certain cases, an earlier deadline for employer submission of the list of employees eligible to vote. The rule change makes changes in order to improve the consistency of provisions regarding hearings. The rule change also eliminates reference to the *Agricultural Employees Labor Relations Act*, which was repealed in 2012, corrects erroneous internal references and makes miscellaneous non-substantive changes for the purpose of clarity.

**Basis statement:**

This rulemaking of the Maine Labor Relations Board is authorized by 26 MRS §968(3). The Board met and formally approved proposed rule changes on December 6, 2019. A public rulemaking hearing was held in Room 334 of the State House in Augusta on January 29, 2020. The Board met and formally adopted the rules on February 28, 2020. The rule changes will go into effect on April 1, 2020.

The Board has not updated its rules in approximately 20 years. Since that time, citizens have come to increasingly rely on electronic means to communicate and to receive information. The rule changes put forward by the Board attempt to accommodate that reality and, in the process, streamline the Board's processes for the benefit of parties engaging in Board-administered business as well as for the benefit of the agency itself. Electronic filing of documents is now common for most, if not all, state labor relations agencies and their federal counterparts. The Board reviewed several of these models for electronification but decided to base its system on that of New Hampshire's Public Employee Labor Relations Board. This model consists of a designated email address (in Maine's case [mlrb@maine.gov](mailto:mlrb@maine.gov)) to which documents are submitted. Given the simplicity of this method, the low implementation cost and its ease of use for the parties, the Board concluded this was the best way to move its operations further into the digital sphere, given budget constraints and the current level of filings. Several other changes in the rules are intended to complement the Board's attempt at streamlining this electronic filing system and encouraging electronic communication. One change the Board had hoped to make in this area was partially thwarted due to a statutory complication. A provision of the *Maine Administrative Procedure Act* requires that service of documents between parties in an adjudicatory proceeding must take place by either mail or

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

hand delivery. Service of documents by email therefore, though preferred by the Board, may not serve as sole service in such cases. The Board complies with this restriction in its rules, while also encouraging electronic service, by allowing parties to effectuate service by email provided that service by traditional means happens on the same day.

Another major impetus for the rule changes is the need to implement a recent amendment to the *Municipal Employees Labor Relations Law* enacted by Public Law 2019 ch. 135. This law put into place a new process for employee bargaining units to determine their bargaining agent representative without the need for a secret ballot election. Under this "majority sign-up" process, once a majority of the employees in an unrepresented bargaining unit sign authorization cards designating a particular organization as the unit's exclusive bargaining agent, the Board will certify that organization as such.

The Board decided to amend its rules to clarify the Board's position as to reliance on attachments included with prohibited practice complaints. The Board also intended with these rule changes to clarify when a complaint may be amended, and to consolidate into one window of time an employer's initial response to a complaint. Together these changes will hopefully result in a lower rate of deficient filings and a reduced time frame for the resolution of prohibited practice cases filed with the Board.

The rule changes setting the estimated parties' share of mediation service costs serves to streamline the initiation of mediation services by eliminating a bureaucratic step in the process. The Board's recent challenges in maintaining a viable list of individuals for providing private fact-finding services is the basis for removing the rule-based restriction on otherwise eligible individuals who are employees or subcontractors of public management associations or public employee associations. The vast majority of the minor, miscellaneous rule changes made simply reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board.

**Fiscal impact of rule:**

This adoption will not have a significant fiscal impact on the agency or members of the regulated community.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 MRS §968(3)  
**Chapter number/title:** **Ch. 12**, Prohibited Practice Complaints; Interpretive Rulings  
**Filing number:** **2020-036**  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change makes changes intended to streamline the prohibited practice complaint process by requiring a respondent to file any motion regarding sufficiency within the same 20-day period required for providing an answer to a complaint. The rule also, for the purpose of providing clarity, addresses the permitted use of attachments with prohibited practice complaints and provides that a party has the right to file an amended complaint after receiving a notice of errors and insufficiencies from the executive director. It also makes changes in order to improve the efficiency of the agency's processing of petitions and complaints filed by public sector employees, unions and employers through the mandated use of electronic filing to a designated email address. Other changes allow for similar efficiency gains through electronic communication by eliminating the requirement to have a petition signed before notary public and the Board's obligation to post documents on a physical bulletin board. The Board has changed its rules around the procurement of official transcripts in order to reflect its intention to outsource transcribing services to a private court reporter service. The rule change also makes changes to allow an email to serve as proof of service, eliminates reference to the *Agricultural Employees Labor Relations Act*, which was repealed in 2012, and makes miscellaneous non-substantive changes for the purpose of clarity.

**Basis statement:**

This rulemaking of the Maine Labor Relations Board is authorized by 26 MRS §968(3). The Board met and formally approved proposed rule changes on December 6, 2019. A public rulemaking hearing was held in Room 334 of the State House in Augusta on January 29, 2020. The Board met and formally adopted the rules on February 28, 2020. The rule changes will go into effect on April 1, 2020.

The Board has not updated its rules in approximately 20 years. Since that time, citizens have come to increasingly rely on electronic means to communicate and to receive information. The rule changes put forward by the Board attempt to accommodate that reality and, in the process, streamline the Board's processes for the benefit of parties engaging in Board-administered business as well as for the benefit of the agency itself. Electronic filing of documents is now common for most, if not all, state labor relations agencies and their federal counterparts. The Board reviewed several of these models for electronification but decided to base its system on that of New Hampshire's Public Employee Labor Relations Board. This model consists of a designated email address (in Maine's case [mlrb@maine.gov](mailto:mlrb@maine.gov)) to which documents are submitted. Given the simplicity of this method, the low implementation cost and its ease of use for the parties, the Board concluded this was the best way to move its operations further into the digital sphere, given budget constraints and the current level of filings. Several other changes in the rules are intended to complement the Board's attempt at streamlining this electronic filing system and encouraging electronic communication. One change the Board had hoped to make in this area was partially thwarted due to a statutory complication. A provision of the *Maine Administrative Procedure Act* requires that service of documents between parties in an adjudicatory proceeding must take place by either mail or

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

hand delivery. Service of documents by email therefore, though preferred by the Board, may not serve as sole service in such cases. The Board complies with this restriction in its rules, while also encouraging electronic service, by allowing parties to effectuate service by email provided that service by traditional means happens on the same day.

Another major impetus for the rule changes is the need to implement a recent amendment to the Municipal Employees Labor Relations Law enacted by Public Law 2019 ch. 135. This law put into place a new process for employee bargaining units to determine their bargaining agent representative without the need for a secret ballot election. Under this "majority sign-up" process, once a majority of the employees in an unrepresented bargaining unit sign authorization cards designating a particular organization as the unit's exclusive bargaining agent, the Board will certify that organization as such.

The Board decided to amend its rules to clarify the Board's position as to reliance on attachments included with prohibited practice complaints. The Board also intended with these rule changes to clarify when a complaint may be amended, and to consolidate into one window of time an employer's initial response to a complaint. Together these changes will hopefully result in a lower rate of deficient filings and a reduced time frame for the resolution of prohibited practice cases filed with the Board.

The rule changes setting the estimated parties' share of mediation service costs serves to streamline the initiation of mediation services by eliminating a bureaucratic step in the process. The Board's recent challenges in maintaining a viable list of individuals for providing private fact-finding services is the basis for removing the rule-based restriction on otherwise eligible individuals who are employees or subcontractors of public management associations or public employee associations. The vast majority of the minor, miscellaneous rule changes made simply reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board.

**Fiscal impact of rule:**

This adoption will not have a significant fiscal impact on the agency or members of the regulated community.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 MRS §968(3)  
**Chapter number/title:** **Ch. 13**, Resolution of Contract Negotiation Disputes  
**Filing number:** **2020-037**  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change is intended to streamline the provision of mediation services by designating an amount for the parties' estimated share of costs and directing a requesting to provide this payment. The rule change would also eliminate restrictions on employees or subcontractors of public management associations or public employee associations serving as private fact finders, in order to broaden the pool of available fact finders. It makes changes in order to improve the efficiency of the agency's processing of mediation and fact-finding requests filed by public sector employers and unions through the mandated use of electronic filing to a designated email address. It also makes miscellaneous non-substantive changes for the purpose of clarity.

**Basis statement:**

This rulemaking of the Maine Labor Relations Board is authorized by 26 MRS §968(3). The Board met and formally approved proposed rule changes on December 6, 2019. A public rulemaking hearing was held in Room 334 of the State House in Augusta on January 29, 2020. The Board met and formally adopted the rules on February 28, 2020. The rule changes will go into effect on April 1, 2020.

The Board has not updated its rules in approximately 20 years. Since that time, citizens have come to increasingly rely on electronic means to communicate and to receive information. The rule changes put forward by the Board attempt to accommodate that reality and, in the process, streamline the Board's processes for the benefit of parties engaging in Board-administered business as well as for the benefit of the agency itself. Electronic filing of documents is now common for most, if not all, state labor relations agencies and their federal counterparts. The Board reviewed several of these models for electronification but decided to base its system on that of New Hampshire's Public Employee Labor Relations Board. This model consists of a designated email address (in Maine's case [mlrb@maine.gov](mailto:mlrb@maine.gov)) to which documents are submitted. Given the simplicity of this method, the low implementation cost and its ease of use for the parties, the Board concluded this was the best way to move its operations further into the digital sphere, given budget constraints and the current level of filings. Several other changes in the rules are intended to complement the Board's attempt at streamlining this electronic filing system and encouraging electronic communication. One change the Board had hoped to make in this area was partially thwarted due to a statutory complication. A provision of the *Maine Administrative Procedure Act* requires that service of documents between parties in an adjudicatory proceeding must take place by either mail or hand delivery. Service of documents by email therefore, though preferred by the Board, may not serve as sole service in such cases. The Board complies with this restriction in its rules, while also encouraging electronic service, by allowing parties to effectuate service by email provided that service by traditional means happens on the same day.

Another major impetus for the rule changes is the need to implement a recent amendment to the Municipal Employees Labor Relations Law enacted by Public Law 2019

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ch. 135. This law put into place a new process for employee bargaining units to determine their bargaining agent representative without the need for a secret ballot election. Under this "majority sign-up" process, once a majority of the employees in an unrepresented bargaining unit sign authorization cards designating a particular organization as the unit's exclusive bargaining agent, the Board will certify that organization as such.

The Board decided to amend its rules to clarify the Board's position as to reliance on attachments included with prohibited practice complaints. The Board also intended with these rule changes to clarify when a complaint may be amended, and to consolidate into one window of time an employer's initial response to a complaint. Together these changes will hopefully result in a lower rate of deficient filings and a reduced time frame for the resolution of prohibited practice cases filed with the Board.

The rule changes setting the estimated parties' share of mediation service costs serves to streamline the initiation of mediation services by eliminating a bureaucratic step in the process. The Board's recent challenges in maintaining a viable list of individuals for providing private fact-finding services is the basis for removing the rule-based restriction on otherwise eligible individuals who are employees or subcontractors of public management associations or public employee associations. The vast majority of the minor, miscellaneous rule changes made simply reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board.

**Fiscal impact of rule:**

This adoption will not have a significant fiscal impact on the agency or members of the regulated community.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 6072, 6072-A, 6072-B  
**Chapter number/title:** Ch. 2, Aquaculture Lease Regulations  
**Filing number:** 2020-193  
**Effective date:** 8/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of this adopted rule is to make minor corrections and clarifications to the aquaculture regulations.

**Basis statement:**

This rule corrects references to other chapters or sections of the regulation. It also strikes a provision requiring that the applicant secure a performance bond or escrow account and pay rent on their lease within 30 days of the Commissioner's final decision. These requirements must still be completed before aquaculture activities can occur, but they are no longer tied to the date a decision is signed. This change reflects administrative processing of new leases and provides for some additional flexibility, particularly for experimental lease holders who have the option to select the start date of their lease term.

**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.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §6173  
**Chapter number/title:** Ch. 8, Landings Program (Bait)  
**Filing number:** 2020-039  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This rule updates reporting requirements for herring and menhaden. The Primary Buyer Permit reporting elements for herring are expanded and are required weekly. The Herring Harvester Permit reporting requirements are expanded and are required daily. The Menhaden Harvester Permit is implemented, and reporting is required daily during the quota fisheries and weekly during the small-scale fishery.

Based on the lack of comments received, the Department is not recommending any changes to what was originally proposed.

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §6173  
**Chapter number/title:** Ch. 8, Landings Program  
**Filing number:** 2020-040  
**Effective date:** 1/1/2021  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for proposing this rule is to improve the accuracy and timeliness of the reporting of aquaculture harvesting information for all species other than finfish and to consolidate the collection of harvesting information in the Landings Program. Finfish aquaculture reporting will remain with the Aquaculture Division, as the annual reports provide information that cannot be collected through the Landings Program.

**Basis statement:**

Effective January 1, 2021, this rule creates a monthly reporting requirement for persons holding an aquaculture license and growing any species other than finfish on an aquaculture lease or license site. Currently these individuals report annually to the DMR Aquaculture Program. This rule changes this reporting requirement to a standardized monthly report to the DMR Landings Program, consistent with harvester reporting in other Maine fisheries. The data elements for the monthly reporting requirement are specified in the rule.

Based on the feedback received, DMR made the following changes to the original rule proposal:

- Removed the trip level reporting requirement.
- Removed the requirement to report gear type and quantity
- Removed the requirement to report the number of crew on each trip
- Implemented an effective date of January 1, 2021, which will allow time for DMR to conduct education and outreach about the change in reporting.

**Fiscal impact of rule:**

Enforcement of this amendment would not require additional activity in this agency. Existing Landings Program staff will process the reports collected.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 10, Clams and Quahogs  
**Filing number:** 2020-227  
**Effective date:** 11/9/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking reorganizes sections of the chapter for greater clarity. All prohibitions on dredging for quahogs are grouped under the same section. An existing December 31, 2020 sunset on a rule prohibiting dredging for quahogs in the New Meadows River is repealed, resulting in a continuation of the existing prohibition.

**Basis statement:**

This rule removes an existing sunset of December 31, 2020, pertaining to a prohibition on dredging quahogs in the New Meadows River. By removing the sunset, the existing prohibition will remain. The rule also reorganizes sections of the chapter for improved clarity.

**Fiscal impact of rule:**

Enforcement of this amendment will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 11.08, Targeted Scallop Conservation Closures: (9) Upper Narraguagus Bay  
**Filing number:** 2020-007  
**Effective date:** 1/5/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rulemaking to establish a scallop conservation closure in upper Narraguagus Bay in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the upper Narraguagus Bay area.

**Basis statement:**

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08. Targeted Closures will be established in (9) Upper Narraguagus Bay.

**Upper Narraguagus Bay**

Local vessels began harvesting in the upper portion of Narraguagus Bay on opening day, December 2, 2019 of the 2019-2020 scallop season. A group of 4 boats have been consistently harvesting in this rotational area for the first three weeks of the season. Two additional boats have rigged over for scalloping during the 4<sup>th</sup> week of harvest, putting the total effort to 6 scallop drag harvesters.

Harvest rates within the rotation have been mixed; harvesters operating in the upper portion of Narraguagus Bay have not always been reaching their daily trip limit while those that are more southern (lower half) can reach their daily limit by late morning.

The 2019 spring scallop survey observed low levels of scallop biomass, with two stations highlighting hotspots of legal sized scallop resource intermixed with seed and sublegal scallops while four other nearby stations had zero scallops. However, fishermen have reported presence of 3 inch scallops mixed in with the legal product, suggesting that a good cohort will be recruiting into the fishery during the next open rotation cycle.

During the previous open rotation in 2016-2017, the full rotational area was closed after 16 open calendar days. For this current season, the area has been open for 20 days, with weather also being a limiting factor. While information from harvesters and Marine Patrol indicate that catch rates have significantly dropped in the upper portion of Narraguagus Bay, there is still harvest potential in the lower half of the bay. Establishing a conservation closure in the upper half of this rotational area coincides with the 2019 spring scallop survey for observed seed and sublegal produce in addition to fishermen observations regarding the general spread of sublegal product in the northern portion of the bay.

In summary, a reduction in harvest activity attributed to the decline in catch rates have been observed in each of these two areas: upper Narraguagus Bay and upper Cranberry Isles areas. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed during the 2019 Spring Scallop survey that is essential to

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the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the upper Narraguagus Bays and upper Cranberry Isles areas.

**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 §6171(3)  
**Chapter number/title:** Ch. 11, Scallops:11.08, Targeted Scallop Conservation Closures: (10) Chandler and Eastern Bays  
**Filing number:** 2020-011  
**Effective date:** 1/19/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rulemaking to expand the scallop conservation closure to include Chandler and Eastern Bay areas in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bay areas.

**Basis statement:**

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08. Targeted Closures will be established in (10) Chandler and Eastern Bays.

**Chandler and Eastern Bays**

On opening day, December 2, 2019, approximately 17 boats were observed harvesting scallops in the upper Chandler Bay area north of Ballast Island. DMR science staff observed vessels in the area directly and boarded vessels along with Marine Patrol staff to assess harvest rates, catch composition, meat size and also discards. During the first few weeks of December, the number of vessels operating in the area stayed constant, around 15 boats or less on poor weather days. On good days, boats would venture to more exposed areas to prospect. Meat quality and size was consistent, around 15 to 20 count per pound.

Routine observations by Marine Patrol indicate that 5 boats or less remain in each of the Chandler and Eastern Bay areas currently, with catch rates slowing. Daily trip limits are reached by late afternoon. Most boats have left the area to seek more efficient harvest grounds.

During the previous open rotation in 2016-2017 scallop season, this area experienced a similar amount of harvest effort over 16 open calendar days. For this current season, the area has been open for 28 days. Comparatively, there was less documented legal biomass observed in the 2019 spring scallop survey than in previous years. The scallop resource is mixed, with both seed and sublegal scallop amongst legal product.

The decrease in observed effort, along with a decrease in catch rate suggests the peak of harvesting within this area has been reached. The remaining scallop resource requires a conservation closure to allow for recruitment and recovery for the next open rotation.

In summary, a reduction in harvest activity attributed to the decline in catch rates has been observed in the Chandler and Eastern Bays area. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed during the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bays areas.

**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 §6171(3)  
**Chapter number/title:** Ch. 11, Scallops: 11.08, Targeted Scallop Conservation Closures: (11) Middle Penobscot Bay Islands; (12) Somes Sound and Cranberry Islands  
**Filing number:** 2020-020  
**Effective date:** 2/2/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures within Middle Penobscot Bay Islands, and also, Somes Sound and Cranberry Isles in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Middle Penobscot Bay and Cranberry Isles areas

**Basis statement:**

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08. Targeted Closures will be established in (11) Middle Penobscot Bay Islands and (12) Somes Sound & Cranberry Isles.

**Middle Penobscot Bay Islands**

On opening day, December 2, 2019, approximately 15 to 20 boats were observed harvesting scallops within the bounds of this proposed closure; between Great Spruce Head Island, Butter Island, Eagle Island and Bradbury Island and up towards Pickering Island. Initial meat count reports indicated 10 to 12 count scallops (per pound) were being landed during the first few weeks of harvest. Harvest was concentrated in and around these islands for most of December and January. Throughout the month of January, there was increased harvest pressure as more scallop vessels entered the area. But effort had remained focused amongst the islands.

DMR science staff conducted two in-season surveys within the Middle Penobscot Bay rotational area, first on January 3, 2020 and a follow-up survey on January 18, 2020. The initial decline in legal-sized scallop density was estimated at 38% from the first survey, assessed through sampling 22 stations within the area. The subsequent survey results indicated a 59% decline in legal sized scallop density. Additionally, there is no strong recruitment single being observed with regard to the presence of seed or sublegal scallops. Thus, ensuring a threshold of adult biomass is important.

Routine observations by Marine Patrol have also documented a decline in harvest rate and meat size during January. Vessels boarded opening week in December were reporting 3 to 5 bushels of scallops per 15-minute tow compared to the observations this week (January 30,2020) that indicated 1 to 2.5 bushels per tow with scallops; also, shellstock required measuring to ensure legal retention, while in December it was easier to select larger legal shellstock. Other observations by patrol documented the increase in active harvesters in the area:15 to 20 boats during December 2, 2019 to 30-35 boats steadily for the previous three weeks of January. This is approximately double the effort that was observed during the 2016-2017 season, where a peak of 15 boats were documented in January 2017.

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Compiled information indicates there has been near 60% decline of legal density at the stations sampled throughout the season, in addition to the observed decline of bushels per tow. Eight additional harvest days have occurred since the last survey. Harvesters have not reported many observations of sublegal or seed product during harvesting which prompts action to reserve the remaining adult biomass for broodstock. The remaining scallop resource requires a conservation closure to allow for recruitment and recovery for the next open rotation.

**Somes Sound & Cranberry Isles**

There was moderate harvest activity during opening week in December in the upper portion of this rotational area, with the harvesters concentrating on scallops north of Sutton Island. According to the 2019 DMR spring survey, this was the largest density of legal scallops observed during the survey. There were approximately 11 harvesters steadily harvesting in or around this area in December.

Of the eight survey stations represented within this closure area, two stations had no presence of scallops and the remaining five stations, aside from the one north of Sutton Island, had very low densities of legal sized scallops.

Marine Patrol observations indicated that effort peaked around 25 vessels total during the third week of December, with activity very weather dependent. By the end of December, most vessels left the area for better fishing opportunities; those that remained moved further away into Western Bay and south of Great Cranberry Island. Recent reports indicate that less than 5 active vessels were harvesting mid-January with no effort observed during this final week of January. Harvesters also indicated by mid-January that the upper portion of this rotational area was depleted and should be closed so as to restrict new activity on depleted resources.

In summary, a reduction in catch rates have been observed in the Middle Penobscot Bay Islands and Somes Sound and upper Cranberry Isles area. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed during the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Middle Penobscot Bay and Cranberry Isles areas.

**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 §6171(3)  
**Chapter number/title:** Ch. 11, Scallops: 11.08, Targeted Scallop Conservation Closures: (13) Cobscook, Whiting and Dennys Bays  
**Filing number:** 2020-027  
**Effective date:** 2/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures for Cobscook, Whiting and Dennys Bays, all within Zone 3. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will impact the abundant sublegal scallop resource, as well as lower the existing scallop broodstock further, observed in the 2019 Fall Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource that supports an annual fishery. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in these Zone 3 areas.

**Basis statement:**

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08. Targeted Closures will be established in (13) Cobscook, Whiting & Dennys Bays.

**Cobscook, Whiting & Dennys Bays**

Effort within Cobscook Bay in December 2019 was estimated at 70 boats, and quickly ramped up to 100 harvest vessels by the second week of December. Effort has remained stable at 100 boats throughout January and the first two weeks of February. This season, the harvest effort was not clustered like previous years; boats were spread out into all sections of Cobscook Bay and made good use of the Whiting and Dennys Bay Limited Access Area (LAA) on its open days. There has been a steady effort of 25-35 boats harvesting in the Whiting/Denny's Bay Limited Access Area on Mondays.

Two in-season surveys have been completed within the Cobscook and Whiting/Denny's Bay areas to monitor resource removals levels, occurring first on December 21-23, 2019 and second survey on January 23-25, 2020. Results from the both surveys indicated that most harvest effort was occurring in Whiting and Dennys Bay LAA and South Bay, coinciding with harvester and marine patrol reports. While the second survey did not warrant conservation closures after 23 harvest days, results indicated legal sized scallop density had decreased 24% and 26% respectively in Whiting and Dennys and South Bay. There has been an additional 9 days of harvest, and with steady harvest days with 100 boats, it is expected that the resource has exceeded the 30% reduction of legal scallop density estimates.

The comparison of harvestable densities between Johnson Bay (4.18 g/m<sup>2</sup> in 2019 vs 5.97 g/m<sup>2</sup> 2018) and Whiting & Dennys LAA (4.22 g/m<sup>2</sup> in 2019 vs 4.87 g/m<sup>2</sup> 2018) remains an important indicator showing scallop legal biomass remains lower than previous season observations. While there are very strong year classes of sublegal scallops available for the future seasons, it's still imperative to conserve the legal standing stock.

Qualitative information from both marine patrol and active harvesters in the area have observed that sublegal sized cut shells have been coming up in commercial tows. These reports that small scallop product is being harvested is also observed in the science survey size frequency data in which scallops below legal size experienced a decline in density over the

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course of the two in-season surveys. This information also factored into the rationale for this closure. Cobscook Bay has high proportions of both seed and sublegal product that would incur damage, if harvest continued with the existing 100 boats in the area.

On Sunday, February 16, 2020, Cobscook, Whiting and Dennys Bays will close while the St Croix River area remains open for harvesting until further notice.

In summary, catch rates have diminished and sublegal cut shells have been observed in the Cobscook, Whiting and Dennys Bays in Zone 3. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will impact the abundant sublegal scallop resource, as well as lower the existing scallop broodstock further, observed in the 2019 Fall Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource that supports an annual fishery. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in these Zone 3 areas.

**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 §§ 6171, 6722  
**Chapter number/title:** Ch. 11, Scallops (2020-21 Season)  
**Filing number:** 2020-228  
**Effective date:** 11/9/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Scallop regulations must be updated for each new season to adopt the schedules and closure lines based on data from the previous season.

**Basis statement:**

This rulemaking establishes the 2020-2021 scallop fishing season. Daily possession limits of 15 gallons for Zone 1 and Zone 2, and 10 gallons for Zone 3 remain unchanged. For Zone 1, a 60-day season for draggers begins on December 7, 2020 and the last day of the season is March 18, 2021. For Zone 1, a 60-day season for divers starts on November 17, 2020 and the last day of the season is April 24, 2021. For Zone 2, a 70-day season for draggers starts on December 1, 2020 and the last day of the season is March 31, 2021. For Zone 2, a 70-day season for divers starts on November 23, 2020 and the last day of the season is April 24, 2021. For Zone 3, a 50-day season for draggers begins on December 1, 2020 and the last day of the season is March 24, 2021. For Zone 3, a 50-day season for divers begins on December 3, 2020 and the last day of the season is March 27, 2021.

Eastern Casco Bay (Zone 1) and Damariscotta River (Zone 1) are Limited Access Areas for the 2020-2021 scallop season with reduced harvesting days. Western Casco Bay (Zone 1) is closed under the targeted closures based on local depletion. In Zone 2, territorial waters surrounding Machias Seal Island and North Rock are open to harvest all days during January 2021, in addition to open Zone 2 calendar days throughout the season.

The rule maintains the following Limited Access Areas: Western Penobscot Bay, Muscle Ridge, Whiting and Denny's Bays. Additionally, the following existing targeted closures based on depletion, high concentrations of seed/sublegal scallops and/or the presence of spat-producing scallops would be maintained: Lower Muscle Ridge, Sheepscot River, New Meadows River, Card Cove and Beals-Jonesport Bridge.

**Fiscal impact of rule:**

Enforcement of this amendment will 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 §§ 6171, 6749  
**Chapter number/title:** Ch. 26, Sea Urchins (2020-2021 Season)  
**Filing number:** 2020-194  
**Effective date:** 8/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This regulation establishes open harvest days and tote limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 for the 2020-2021 season. For Zone 1, seasons are implemented for divers, trappers, rakers and draggers in 2020-2021, from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2019-2020 season. For Zone 1, the daily tote limit is nine (9), the same as in the 2019-2020 season. For Zone 2, 40-day seasons are implemented for divers, trappers, rakers and draggers in 2020-2021, from which harvesters may only fish up to 30 days of their choosing. This proposal has the same number of fishing days and opportunity days as the 2019-2020 season. For the Whiting & Dennys Bays Limited Access Area in Zone 2, a 15-day season is implemented for Zone 2 divers, trappers, rakers and draggers in 2020-2021. For Zone 2, the daily tote limit is six (6), the same as in the 2019-2020 season.

**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 §6171  
**Chapter number/title:** Ch. 30, River Herring Pilot Project Exemption  
**Filing number:** 2020-041  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The primary reason for proposing this rule is to authorize the harvest of river herring at three specific municipal ponds in accordance with limitations specified by the Commissioner. Harvest from these municipal ponds would otherwise be prohibited, as they do not currently have an approved sustainable fisheries management plan.

**Basis statement:**

This rule adds an exemption to the existing prohibition on the taking, possession, harvest and sale of river herring to include three ponds that were approved for a pilot project by the Atlantic States Marine Fisheries Commission Shad and River Herring Management Board in October 2019. Specific harvest limitations will be established in the authorization provided by the Commissioner. The exemption will expire in December 2025, because within a five-year period, the municipal ponds selected for inclusion must meet the established sustainability criteria for harvest to continue under the sustainable fisheries management plan.

**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 §§ 6505-A, 6865  
**Chapter number/title:** Ch. 32, Eels and Elvers (Elver Quota System for the 2020 Season)  
**Filing number:** 2020-042  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule establishes the elver quota allocations for the 2020 season for individuals licensed under §§ 6505-A and 6302-A, and the method of calculating individual elver quota allocations for individuals licensed under §6505-A. 2020 allocations for individuals who held a license in 2019 are the same as their 2019 allocations, plus any quota associated with licenses not renewed in 2019, or licenses suspended for the duration of the 2020 season, in excess of that which is allocated to new license holders, which will be distributed evenly to all existing license holders. Finally, the rule establishes a \$500 fee for the inspection of elver export events by Maine Marine Patrol.

**Basis statement:**

Each year, the method of calculating annual elver quota must be specified for the upcoming season. In addition, this rule-making establishes a fee for inspecting elver export events that is authorized in statute.

**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 §6171-A  
**Chapter number/title:** Ch. 32, Eels and Elvers: 32.03, Elver Harvesting Regulations  
Area Closures  
**Filing number:** 2020-059  
**Effective date:** 3/22/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Early in the season, elver fishermen will be concentrated in the southern part of the State, where the number of cases of COVID-19 and evidence of community spread is highest. In order to protect public health, the Commissioner is closing the coastal waters of the State to the fishing for and taking of elvers for a minimum of two weeks. This delay is intended to help limit the spread of COVID-19, a global pandemic that has reached Maine. As of 12: 15pm on March 19, 2020, Maine had 42 confirmed cases, and 10 presumptive positive cases of the virus.

**Basis statement:**

The Commissioner adopts this emergency rulemaking to close the coastal waters of the state to fishing for, taking, or possessing elvers. The elver fishery is typically undertaken in a manner that causes fishermen to be in close proximity on Maine's rivers, which would support the continued spread of COVID-19. Early in the season, fishermen will be concentrated in the southern part of the State, where the number of cases and evidence of community spread is highest. In order to protect public health, the Commissioner is closing the coastal waters of the State to fishing for, taking, and possessing elvers for a minimum of two weeks. Conditions will be reassessed at that time, and the emergency regulation repealed when appropriate.

As of March 19, 2020, COVID-19 has been found in eight of Maine's 16 counties, with nearly half of the 52 cases reported in Cumberland County. All Mainers have been asked to follow social distancing recommendations, including maintaining 6 feet from other people to reduce the spread of the virus. Following this recommendation is critically important to avoid overwhelming our health care system.

The elver season typically starts on March 22<sup>nd</sup>. However, in the current situation, the typical crowded conditions both on the rivers and in shops could not only allow transmission, but also speed the spread of the disease throughout the state as fishermen travel along the coast to harvest and sell elvers, and then return to their homes. An area closure of the coastal waters of the state is necessary to mitigate this risk.

**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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*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 number/title:** Ch. 32, Eels and Elvers: 32.03, Elver Harvesting Regulations  
Area Closures  
**Filing number:** 2020-064  
**Effective date:** 3/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Elver season was originally scheduled to begin on March 22, 2020. However, early in the season, elver fishermen would be concentrated in the southern part of the State, where the number of cases of COVID-19 and evidence of community transmission was highest. Therefore, effective March 22, 2020, the Commissioner closed the coastal waters of the State to the fishing for and taking of elvers to protect public health. The delay allowed the Department to develop protocols, consistent with guidance issued by relevant state agencies, for harvesters and dealers to follow, which help limit the spread of COVID-19. This action amends the existing emergency rule, so that beginning at 8:00am on March 30, 2020 the coastal waters of the state are open to elver fishing.

**Basis statement:**

Effective March 22, 2020, the Commissioner adopted an emergency rulemaking to close the coastal waters of the state to fishing for, taking, or possessing elvers. The elver fishery is typically undertaken in a manner that causes fishermen to be in close proximity on Maine's rivers, which would support the continued spread of COVID-19. Early in the season, fishermen are concentrated in the southern part of the State, where the number of cases and evidence of community transmission is highest. Therefore, in order to protect public health, the Commissioner temporarily closed the coastal waters of the State to fishing for, taking, and possessing elvers.

The temporary closure allowed Commissioner Keliher to work with Tribal leadership, industry leadership, and Maine Marine Patrol to develop a plan to allow the elver fishery to occur in a way that does not present unnecessary risk to the participants, or other residents of the State. The plan includes provisions for license holders to be able to catch and sell elvers on behalf of other license holders, in accordance with Executive Order 21 FY 19/20. The plan also includes agreement amongst elver dealers to follow specific protocols, consistent with guidance provided by the Maine Center for Disease Control, in sales transactions to minimize the potential for the spread of disease. Based on the development of these plans, the risk to public health presented by this fishery is mitigated, and the amendment opens the coastal waters of the state to elver fishing beginning at 8:00am on Monday, March 30, 2020.

**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 §6171(3)(C)  
**Chapter number/title:** Ch. 34, Groundfish Regulations: 34.07, Atlantic Halibut  
Emergency Regulations  
**Filing number:** 2020-115  
**Effective date:** 5/6/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This action is intended to protect and conserve the halibut resource in compliance with the federal management plan and avoid future implementation of accountability measures which include zero possession of Atlantic halibut by all federal permit holders.

**Basis statement:**

The Commissioner adopts this emergency rulemaking to reduce landings of Atlantic halibut in the 2020 state waters fishery. Atlantic halibut is regulated by NOAA Fisheries as part of the Northeast Multispecies Fishery Management Plan. It is also subject to requirements of the Magnuson-Stevens Act which requires that landings remain within an allowable catch. If that catch limit is exceeded, the fishery will be subject to management controls, called accountability measures, that prevent catch limits from being exceeded, or correct for overages if they occur.

The total allowable catch of Atlantic halibut is 106 metric tons (mt) for the upcoming federal fishing year. The state sub-component, which is a target established by NOAA for halibut landed in state waters, is 21 mt. In 2018, the Maine State waters fishery reported approximately 29.7 mt of landings. Discard calculations added an additional .9 mt, for a total 30.7 mt attributed to Maine state waters. The federal fishery is highly constrained as federal vessels are already limited to just one fish per trip. The federal fishery has come very close to its limit in recent years as well. In order to stay within the sub-component level of 21 metric tons, Maine must achieve a 30 percent reduction in halibut landings.

If the total Annual Catch Limit for Atlantic halibut is exceeded, the accountability measure requires that any vessel issued a federal permit, including a federal lobster permit, be subject to zero possession of Atlantic halibut in the following fishing year. This would significantly reduce access to the Atlantic halibut fishery for many Maine commercial fishermen. For these reasons, the Commissioner hereby adopts an emergency regulation to reduce the state waters Atlantic halibut season in accordance with 12 MRS §6171(3)(C).

**Fiscal impact of rule:**

This change is anticipated to provide a modest increase in economic opportunity for charter vessels and the recreational fishing sector.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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)(C)  
**Chapter number/title:** Ch. 34, Groundfish Regulations: 34.06, Recreational Groundfish Restrictions  
**Filing number:** 2020-202  
**Effective date:** 8/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This action is intended to manage the Gulf of Maine cod and haddock recreational fishery in compliance with the federal management plan.

**Basis statement:**

The Commissioner adopts this emergency rulemaking to modify the recreational fishing seasons for Gulf of Maine cod and haddock. Cod and haddock are regulated by NOAA Fisheries as part of the Northeast Multispecies Fishery Management Plan (FMP). NOAA Fisheries sets recreational sub-annual catch limits for both species as well as a suite of effort controls to ensure catch stays within the sub-annual catch limits. On August 14<sup>th</sup>, NOAA Fisheries issued an interim final rule to set the recreational measures for the 2020 fishing year. The rule maintains the same minimum size and bag limit as the previous year but expands the recreational fishing season for both cod and haddock. This is in response to analysis from NOAA Fisheries which suggests additional fishing days are not expected to result in an overage of the sub-ACL.

For the 2020 fishing year, the Gulf of Maine cod season for the recreational fishery differs between charter and party vessels and private recreational fishing vessels. NOAA Fisheries implemented different seasons by mode in response to concerns regarding the economic impact of Covid-19 on the recreational for-hire community. Specifically, state restrictions in the spring may have limited the ability for for-hire vessels to carry passengers and operate trips. As a result, NOAA Fisheries extended the recreational cod season for the charter and party vessels by two weeks in the fall in order to provide additional economic opportunities for this sector.

Importantly, not only does this action ensure compliance with the federal fishery management plan, but it also expands the recreational fishing opportunities in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish seasons in accordance with 12 MRS §6171(3)(C).

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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: 34.06, Recreational Groundfish Restrictions  
**Filing number:** 2020-229  
**Effective date:** 11/9/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This action is intended to manage the Gulf of Maine cod and haddock recreational fishery in compliance with the federal management plan.

**Basis statement:**

On August 28, 2020, the Department of Marine Resources adopted an emergency rule in order to be consistent with a NOAA Fisheries federal rulemaking which was published on August 14<sup>th</sup>. The Department incorporates the emergency changes via this regular rulemaking. The regulation applies to charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. Gulf of Maine cod can be possessed on recreational fishing vessels, which per Section 34.01 are exclusive of charter or party vessels, from September 15-September 30 inclusive, and April 1-April 14, inclusive. Charter or party vessels may possess Gulf of Maine cod from September 8-October 7, inclusive, and from April 1-April 14, inclusive. The rule also adopts the season for Gulf of Maine haddock such that haddock may be possessed on board a party, charter, and recreational fishing vessel from April 1-February 28. In addition to complying with federal law and incorporating an existing emergency rule into the regular rule, this rule will increase recreational fishing opportunity in Maine State waters.

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 36, Atlantic Herring (2020 Harvest Framework)  
**Filing number:** 2020-043  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This regulation reorganizes the Atlantic herring fishery allocation into trimesters, as previously used. Updated definitions for landing, and carrier vessel are included. The Fixed Gear Set Aside has been reduced from 39 mt to 30 mt to comply with 2020 specifications.

Based on the comment received, the Department has clarified that harvesters with only a Commercial Pelagic and Anadromous License fishing for Atlantic herring in State waters is subject to the 25,000 pound trip limit, regardless of gear type utilized for the taking of fish.

**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, 2020 to December 31, 2020**  
*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. 36, Atlantic Herring Harvest Rules  
**Filing number:** 2020-133  
**Effective date:** 5/30/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This rulemaking sets the start date for the mobile Atlantic herring fishery to commence on Sunday, July 19, 2020 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held May 12, 2020.

**Basis statement:**

This rulemaking sets the start date for the mobile Atlantic herring fishery to commence on Sunday, July 19, 2020 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held May 12, 2020. The Days Out Commissioners designated zero landing days June 1 through July 18, 2020. The Days Out Commissioners designated four consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Thursday for vessels issued an Atlantic Herring Limited Access Category A Permit. These vessels are limited to landing 240,000 lbs. (6 trucks) weekly. The Days Out Commissioners designated five consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Friday for vessels issued an Atlantic Herring Limited Access Category C Permit. Limited access harvester vessels may transfer Atlantic herring at-sea to other limited access harvester vessels. All harvester vessels are prohibited from at-sea transfers of Atlantic herring to carrier vessels. All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6:00 p.m. to 6:00 p.m.). Daily electronic landings reports are required. The Commissioner has determined that it is necessary to take emergency action to implement these limitations to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(C).

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 36, Atlantic Herring (Zero Landing Days)  
**Filing number:** 2020-189  
**Effective date:** 8/22/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The Atlantic herring fishery Season 1 (specifically, Trimester 2: June 1 – September 30) closes when 92% of the sub-ACL is reached. It is projected that landings reached the closure trigger following harvest on Friday, August 21, 2020. The Days Out Commissioners have designated zero landing days beginning on August 22, 2020 through to September 30, 2020 for the remainder of season 1. The Commissioner has determined that it is necessary to take emergency action to implement this closure to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(C).

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 36, Atlantic Herring (Season 2 Opens)  
**Filing number:** 2020-216  
**Effective date:** 10/6/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

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

**Basis statement:**

The Days Out Commissioners have determined landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Three landing days have been designated, starting 6:00 p.m. Sunday October 11 through 6:00 p.m. Wednesday, October 14, 2020. Following week, two landing days have been designated, starting 6:00 p.m. Sunday October 18 through 6:00 p.m. Tuesday, October 20, 2020. Two landing days will remain effective until further notice. The Commissioner has determined that it is necessary to take emergency action to implement this harvest schedule to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 36, Atlantic Herring (Modify Season 2)  
**Filing number:** 2020-230  
**Effective date:** 11/3/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Days Out Commissioners have modified landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Four landing days have been designated, starting 6:00 p.m. Sunday, November 8, through to 6:00 p.m. Thursday, November 12, 2020 and will remain at four landing days until further notice.

**Basis statement:**

The Days Out Commissioners have modified landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Four landing days have been designated, starting 6:00 p.m. Sunday, November 8, through to 6:00 p.m. Thursday, November 12, 2020 and will remain at four landing days until further notice. The Commissioner has determined that it is necessary to take emergency action to implement this harvest schedule to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(C).

**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.



**Annual List of Rulemaking Activity**  
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*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. 40, Smelt Regulations  
**Filing number:** 2020-044  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for this rule is to provide greater clarity regarding the daily limits for smelts at different times of year in Zone 2.

**Basis statement:**

This rule is a reorganization of daily limits in the smelt regulation, for improved clarity regarding daily limits in specific zones during different times of year. The rule does not change any existing limits. The rule also removes a repealed statutory reference.

**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, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

<b>Agency name:</b>	<b>Department of Marine Resources</b>
<b>Umbrella-Unit:</b>	<b>13-188</b>
<b>Statutory authority:</b>	12 MRS §6171(3)
<b>Chapter number/title:</b>	<b>Ch. 41</b> , Menhaden (Menhaden (2020 Season))
<b>Filing number:</b>	<b>2020-045</b>
<b>Effective date:</b>	3/15/2020
<b>Type of rule:</b>	Routine Technical
<b>Emergency rule:</b>	No

**Principal reason or purpose for rule:**

This rulemaking amends the reporting of menhaden landings; reporting through an approved electronic option will be required. State and episodic fisheries remain at daily reporting. The Incidental and Small Scale fishery is amended to a weekly reporting requirement. This rulemaking introduces a personal use bait permit that will allow harvesters to use a bait gillnet to take three barrels of menhaden daily, separate from all other menhaden fishery activity. The harvest schedule has been modified; open harvest days are Monday, Tuesday, Thursday, and Friday during the quota allocation fishery programs. Harvester vessels may make multiple transfers of menhaden to no more than two carrier vessels per calendar day. Carrier vessels are defined and effort restrictions for their activity have been described. Carrier vessels are prohibited from making transfers at sea. Carrier vessels are prohibited from participating in the Incidental and Small Scale fishery.

**Basis statement:**

This rulemaking amends the reporting of menhaden landings; reporting through an approved electronic option will be required. The Department will offer reporting online through the LEEDS system and via an application for smart phones and tablets that will operate in offline situations but allow for the upload of landings data once the device reaches an area for wi-fi service. State and episodic fisheries remain at daily reporting. The Incidental and Small Scale fishery is amended to a weekly reporting requirement.

This rulemaking introduces a personal use bait permit that will allow harvesters to use a bait gillnet to take three barrels of menhaden daily, separate from all other menhaden fishery activity. Activity under this permit will count towards the quota during quota fishery operations. As such, daily reporting will be required during quota fishery status.

Harvesters may complete multiple transfers to no more than two carrier vessels per calendar day. The harvest schedule has been amended for the 2020 fishing season, such that Monday, Tuesday, Thursday and Friday will be open harvest days during the quota managed fishery programs. This amendment will assist in balancing the flow of menhaden within the bait system.

Vessels intending to transport fish from the harvester vessel to the final landing location are required to possess a carrier vessel license (12 MRS §6502-B). Carrier vessels are prohibited from making transfers at sea. Carrier vessels are prohibited from participating in the Incidental and Small Scale fishery.

Based on the comments received, the following changes have been made:

- The Department has updated the reporting requirements for the personal use bait permit to daily to align with the quota fisheries schedule for adequate monitoring of landings.
- Effort restrictions within the State and Episodic fishery programs have been amended to allow multiple transfers of menhaden by the harvester vessel to no more than two carrier vessels that match the harvesters daily landing report.
- The harvest schedule has been amended from Monday through Thursday, to Monday and Tuesday, followed by a break on Wednesday and then resume

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

harvesting Thursday and Friday. This maintains the existing opportunity of four harvest days.

- Carrier vessels are prohibited from making transfers at sea.

**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, 2020 to December 31, 2020**  
*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)(A)  
**Chapter number/title:** Ch. 41, Menhaden: 41.30, Menhaden Fishery Management Program (re: Menhaden Open Episodic Event Set Aside (EESA) Program)  
**Filing number:** 2020-147  
**Effective date:** 6/27/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The fishery for Atlantic menhaden is managed through the Atlantic States Marine Fisheries Commission (ASMFC). Maine's allocated quota share for FY2020 was 2,438,696 pounds, which was fully consumed by June 18, 2020. Department of Marine Resources (DMR) requested, and was granted, approval to participate in the Episodic Event Set Aside program to access an available 4.7 million lbs. of menhaden quota. Beginning Monday, June 29, 2020 at 12:01 a.m., the harvest and landing is permitted on Mondays and Thursdays, 12:01 a.m. to 11:59 p.m. only. Reporting will now be required on the same day as fish are landed. The Commissioner has determined that it is necessary to take emergency action to reduce harvest days and provide more timely reports to prevent unusual damage to the menhaden resource by exceeding available quota.

**Basis statement:**

The fishery for Atlantic menhaden is managed through the Atlantic States Marine Fisheries Commission (ASMFC). Maine's allocated quota share for FY2020 was 2,438,696 pounds, which was fully consumed by June 18, 2020. Department of Marine Resources (DMR) requested, and was granted, approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs. of menhaden quota. Beginning Monday, June 29, 2020 at 12:01 a.m., the harvest and landing is permitted on Mondays and Thursdays, 12:01 a.m. to 11:59 p.m. only. Reporting will now be required on the same day as fish are landed to ensure that DMR has the most accurate accounting of the catch as possible.

The daily limit remains at 120,000 pounds and the weekly cap remains at 160,000 pounds. These limits apply to both harvester and carrier vessels. All harvesting and landing of menhaden are restricted to Maine territorial waters and any vessel is restricted to one landing only per calendar day.

The Department requested, and received, approval to enter the Episodic Event Set Aside (EESA) fishery on June 25, 2020. However, with over 4.3 million pounds landed during the state fishery, in conjunction with the reduced effort currently within the lobster fishery, the demand for bait has been moderate compared to the supply. As such, the Department was made aware some harvesters whom did not have pre-arranged markets for their harvest, have dumped fish. Also, there have been reports that harvesters have encountered large sets that were beyond their ability to harvest and dead fish have been left behind. These fishing practices are unacceptable and are a misuse of the menhaden resource.

Currently, there are 772 Commercial Pelagic and Anadromous license permits issued with a menhaden endorsement and more than 100 of those individuals actively reported during the State Allocated fishery. The harvest capacity of this fleet is above 1 million pounds daily, and thus requires ample processing time by shore side operations to properly chill, salt and store menhaden as bait products for future use in the lobster fishery. With the large increase of participants in the menhaden fishery for 2020, and to ensure that fish are utilized

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**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

effectively within the lobster fishery, it is imperative to reduce the harvest schedule during the EESA to slow the rate of menhaden landings to meet the actual demand for bait within the lobster fishery. Further, it is necessary to collect landings information on a more timely basis to ensure that the quota available to Maine through the EESA is not exceeded.

The Commissioner has determined that it is necessary to take emergency action to reduce harvest days and provide more timely reports to prevent unusual damage to the menhaden resource by exceeding available quota. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(A).

**Fiscal impact of rule:**

No fiscal impact anticipated.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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)(A)  
**Chapter number/title:** Ch. 41, Menhaden: 41.30(3), Episodic Event Fishery  
**Filing number:** 2020-151  
**Effective date:** 7/2/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Department of Marine Resources (DMR) was granted approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs. of menhaden quota. Due to the high rate of effort, it was projected that landings on Monday, June 29 exceeded 2.5 million pounds, and continued fishing would result in an overage of the available EESA. To allow for continued participation in the EESA, the daily landing limit will be reduced to 6,000 lbs. on open harvest days and carriers are prohibited; Mondays and Thursdays. The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota.

**Basis statement:**

Department of Marine Resources (DMR) was granted approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs. of menhaden quota. Due to the high rate of effort, it was projected that landings on Monday, June 29 exceeded 2.5 million pounds, and continued fishing would result in an overage of the available EESA. To allow for continued participation in the EESA, the daily landing limit will be reduced to 6,000 lbs. on open harvest days and carriers are prohibited; Mondays and Thursdays. Reporting is still required on the same day as fish are landed to ensure that DMR has the most accurate accounting of the catch as possible. All harvesting and landing of menhaden are restricted to Maine territorial waters and any vessel is restricted to one landing only per calendar day.

The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(A).

**Fiscal impact of rule:**

No fiscal impact anticipated.

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*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, 6502-C  
**Chapter number/title:** Ch. 41, Menhaden (2021 Program Update)  
**Filing number:** 2020-231  
**Effective date:** 11/9/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This rulemaking establishes separate fishery harvest control rules for harvesting menhaden under a commercial menhaden fishing license and a noncommercial menhaden fishing license. Reporting requirements are amended to reduce the frequency of submission of daily landings reports for noncommercial license holders from daily to weekly. Finally, the chapter has been reorganized for clarity.

**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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*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. 42, Striped Bass  
**Filing number:** 2020-046  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This regulation is intended to modify the size limit requirements for striped bass by adding a maximum size limit, above which all striped bass must be released. As a result of this regulation, it will be unlawful for any person to take or possess striped bass which are less than 28 inches in total length as well as striped bass which are equal to, or greater than, 35 inches in total length.

**Basis statement:**

Currently, it is unlawful for any person to take or possess striped bass which are less than 28 inches in total length. This rule modifies the existing regulatory requirement by adding a maximum size limit, such that it is also unlawful for any person to take or possess striped bass which are 35 inches in total length or longer. This rule is needed to come into compliance with the Atlantic States Marine Fisheries Commission's Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, which is intended to address the overfishing status of the stock.

**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, 2020 to December 31, 2020**  
*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)(C)  
**Chapter number/title:** Ch. 42, Striped Bass: 42.01, Statewide Striped Bass Size Restrictions, Harvest Methods  
**Filing number:** 2020-248  
**Effective date:** 12/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This action is intended to come into compliance with the Atlantic Striped Bass Interstate Fishery Management Plan and broaden the requirement to use circle hooks in the recreational striped bass fishery.

**Basis statement:**

The Commissioner adopts this emergency rulemaking to modify the circle hook requirements for striped bass such that it is unlawful to use any hook other than a circle hook when fishing for striped bass with bait. This emergency rulemaking removes the exception that previously exempted those fishing for striped bass with baited latex and rubber tube rigs from having to use circle hooks. This action is necessary to come into compliance with the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Striped Bass Interstate Fishery Management Plan.

Striped Bass is managed by ASMFC. As a part of Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, the use of circle hooks is required when recreationally fishing for striped bass with bait; this requirement goes into effect January 1, 2021. At its October 2020 meeting, the Atlantic Striped Bass Management Board reviewed state regulatory language for the circle hook requirement. As a part of this review, ME DMR submitted existing regulatory language which requires the use of circle hooks when fishing for striped bass with bait; however, this regulation also provided an exception to the circle hook requirement for those who were fishing with baited latex and rubber tube rigs. Maine was one of two states which included an exception to the circle hook requirement for a portion of the striped bass recreational fishery. Ultimately, the Atlantic Striped Bass Management Board voted to disapprove any exceptions to the requirement to use circle hooks when recreationally fishing for striped bass with bait.

ME DMR must modify its striped bass regulation in order to come into compliance with the ASMFC Striped Bass Interstate Fishery Management Plan. Further, broadening the requirement to use of circle hooks in the recreational striped bass fishery has the potential to have positive benefits for the stock given the use of circle hooks has been shown to reduce discard mortality rates. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the circle hook requirements in the striped bass recreational fishery in accordance with 12 MRS §6171(3)(C).

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 50, Spiny Dogfish and Coastal Sharks  
**Filing number:** 2020-195  
**Effective date:** 8/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The regulation is intended to add North Atlantic shortfin mako sharks to the definition of 'Coastal Sharks' in ch. 50. As a result, the taking of North Atlantic shortfin mako sharks will be prohibited in Maine's territorial waters.

**Basis statement:**

A 2017 assessment found the North Atlantic shortfin mako shark stock to be overfished and experiencing overfishing. In response, NOAA Fisheries implemented measures which aim to achieve at least a 75% reduction in US shortfin mako shark landings. Currently, North Atlantic shortfin mako sharks are not included in the definition of 'Coastal Sharks' in the Department's ch. 50 regulations. As a result, the regulations are silent on the retention of this species. This rule adds North Atlantic shortfin mako sharks to the list of species included under 'Coastal Sharks'. Given ch. 50 prohibits the take of species defined as 'Coastal Sharks', this rule prohibits the taking of North Atlantic shortfin mako sharks in Maine's territorial waters.

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 55, Gear Restrictions  
**Filing number:** 2020-047  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking strikes the requirement to seek a permit authorized by the Commissioner of Marine Resources to use purse seine gear targeting Atlantic menhaden in the Damariscotta and Saint George Rivers.

**Basis statement:**

This rule strikes the requirement to seek a permit authorized by the Commissioner of Marine Resources to use purse seine gear targeting Atlantic menhaden in the Damariscotta and Saint George Rivers. Due to vessel length restrictions on harvest operations for menhaden as described in ch. 41, there is no longer a concern regarding conflict between overlapping fisheries that occur within these two rivers. Additionally, an updated menhaden permit under the commercial pelagic and anadromous license fully defines the population of menhaden harvesters.

**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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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. 75, Protected Resources (Gear Marking Exception)  
**Filing number:** 2020-097  
**Effective date:** 4/21/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department has received input from lobster fishermen that the current gear marking requirements are too onerous for gear being fished in shallow coastal waters or up in rivers. The Department has determined that two marks is reasonable for vertical lines 100 feet or less in length.

**Basis statement:**

This rule creates an exception to current requirements to mark the buoy lines for trap/pot gear with either three or four purple marks, depending on where the gear is fished. Buoy lines of 100 feet or less in length would be required to have only two purple marks, one of 36 inches in the top two fathom of the line, and one of 12 inches at the bottom of the line. This modification of the existing rule is intended to reduce the impact of the gear marking requirements on fishermen fishing in depths where the likelihood of whales interacting with lobster gear is extremely low.

**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.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Defense, Veterans and Emergency Management,  
**Bureau of Maine's Veterans Services**

**Umbrella-Unit:** **15-215**

**Statutory authority:** 37-B MRS §513-A

**Chapter number/title:** **Ch. 3** (*New*), Administration of the Veteran's Homelessness Prevention Coordination Program

**Filing number:** **2020-214**

**Effective date:** 10/5/2020

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The program and the rules will provide funding for transitional housing to homeless veterans and coordinate efforts to remedy and prevent homelessness among veterans in the state. The purpose of this rule is to ensure that funds are given to organizations that are equipped to provide adequate housing services to homeless veterans in a safe, unbiased manner. To do this, the rule establishes eligibility criteria which recipient organizations must meet prior to receiving funds.

**Basis statement:**

The rule establishes the process to govern the administration of the recently-enacted Veterans Homeless Prevention Coordination Program pursuant to Title 37-B MRS §513-A. The program will provide funding for transitional housing to homeless veterans and coordinate efforts to remedy and prevent homelessness among veterans in the state. The rule also outlines the procedure for establishing collaborative agreements with human services-based volunteer organizations and sets forth the requirements and eligibility criteria for those providers, a reimbursement rate and billing schedule, and procedures to remedy any misuse of the funds. The rule also establishes administration guidelines, annual inspection requirements and the process for re-consideration of Bureau decisions denying reimbursement. Provider(s) will be required to submit monthly updates on assistance rendered under this program.

The rule provides a reimbursement rate (\$50 a night) that closely follows the per diem rate that the U.S. Veterans Administration establishes for its homeless veterans' program, pursuant to 38 USC §2012. Reimbursement would be made for up to 30 continuous nights to a veteran who is a resident of Maine and who meets the definition of a veteran as outlined in these rules.

The rule establishes eligibility for reimbursement to a human service-based volunteer organization on a case-by-case basis as authorized in Title 37-B MRS §513-A. The rule also outlines the procedure for establishing collaborative agreements and programs of partnerships with human services-based volunteer organizations and sets forth the requirements and eligibility criteria for providers, the reimbursement billing schedule, and procedures to remedy any misuse of the funds.

Changes from the proposed rule include the addition of a case management reference to the Section 3 Provider Requirements subsection 7 in response to a comment. Also, in Section 3 subsection 18 a clarification has been added that the Provider must facilitate enrollment of the Veteran in the Bureau's case management system and identify the Veteran whose care is being reimbursed in order to better assist and coordinate services and programs for the identified homeless veteran. Also, the reference to the requirements if religious activities are offered was moved from Section 2 Provider Eligibility to Section 3 Provider Requirements for better readability. An additional clarifying requirement regarding discrimination was added to Section 3

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

Subsection 5. Namely, if a Provider or Facility departs from the non-discrimination requirement in order to serve a particularly underserved population (i.e. female veterans), then that Provider or Facility would have the ability to explain this practice to the Bureau's satisfaction in order to receive funding under this program.

Also, the Bureau has changed the wording of Section 4 subsection A to remove "identifying and" in order to better describe the activities that a Provider would be eligible for reimbursement; namely securing housing for homeless veterans. Also, a requirement that the Provider facilitate enrollment in the Bureau's case management system was added to Section 4. Administration of the Fund in order to ensure that the affected Veteran is afforded all the services available to them. The Bureau also amended the definition of Veteran in Section 1 to align with the recently-amended definition of Veteran under LD 1926 for 37-B MRS §505, sub-§1-C. Finally, a definition for "Facility" was added in Section 2 for clarification purposes to describe locations where a Provider may provide services to Persons Experiencing Homelessness who also meet the definition of a Veteran.

Given the State of Emergency that the State of Maine was experiencing at the time of the proposed rule being advertised, no public hearing was held. Three comments were received via email.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of State Fire Marshal  
**Umbrella-Unit:** 16-219  
**Statutory authority:** 30-A MRS §4451  
**Chapter number/title:** Ch. 52, Certification Standards for Municipal Code Enforcement Officers and Third-Party Inspectors *(New)*  
**Filing number:** 2020-058  
**Effective date:** 3/25/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The chapter establishes the minimum standards for all code enforcement officers appointed in Maine and recertification standards that recognize the experience and diverse job responsibilities of Maine's professional code enforcement community. The rules are intended to be flexible to accommodate the range of experiences of code enforcement officers, while laying out basic requirements for newly-appointed code enforcement officers.

**Basis statement:**

*(See Principal Reason)*

**Fiscal impact of rule:**

No fiscal impact.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Gambling Control Board**  
**Umbrella-Unit:** **16-633**  
**Statutory authority:** 8 MRS §§ 2001(26), 1003(1)(B), (2)(1), (3)(E), (3)(J)  
**Chapter number/title:** **Ch. 29** *(New)*, Promotional Credits and Other Player Incentives  
**Filing number:** **2020-135**  
**Effective date:** 6/8/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The rule package adopts new rule ch. 29 regarding the use of player incentives, including promotional credits in slot machines and vouchers at table games. Ch. 29 will enable the Board to regulate gambling-related advertising and marketing programs and junket services used in connection with slot machines and table games.

**Fiscal impact of rule:**

These rule amendments are not expected to have a fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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, 1925  
**Chapter number/title:** **Ch. 205**, Rules for Administering the *Maine Traveler Information Services Act*  
**Filing number:** **2020-226**  
**Effective date:** 11/8/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The changes to this rule are in response to the recent Supreme Court case Reed v. Gilbert regarding freedom of speech.

**Basis statement:**

A recent U.S. Supreme Court case, Reed v. Gilbert, provides that content-based restrictions on signs in the public right of way may violate the freedom of speech protections in the constitution. Therefore, the Department can regulate signs in the public right of way in terms of time, place, and manner but not content. In light of this case, these sign rules required modification to eliminate any content-based regulations. In this revision, definitions have been modified and references to content-based signs such as political signs have been removed and replaced with the term “temporary signs”.

**Fiscal impact of rule:**

There is no impact on the General Fund.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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; Resolves 2018 ch. 46; HP 1204 - LD 1724  
**Chapter number/title:** Ch. 800 (New), Autonomous Vehicle Pilot Program Rules  
**Filing number:** 2020-062  
**Effective date:** 4/1/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of these rules is to establish a process to evaluate and authorize an autonomous vehicle tester to demonstrate and deploy for testing purposes an automated driving system on a public way.

**Basis statement:**

None.

**Fiscal impact of rule:**

Minimal.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Pilotage Commission**  
**Umbrella-Unit:** **17-387**  
**Statutory authority:** 38 MRS §90  
**Chapter number/title:** **Ch. 1**, Rules and Regulations  
**Filing number:** **2020-177**  
**Effective date:** 8/10/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To bridge gap between current low volume vessel traffic to train replacement pilots for small Maine ports.

**Basis statement:**

The purpose of this amendment is to bridge the gap between current low volume vessel traffic to train replacement pilots for small Maine ports. This amendment defined Low Volume Areas and provided licensing requirements for pilots in Low Volume Areas.

**Fiscal impact of rule:**

No impact on the General Fund is expected.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Bureau of Revenue Services  
**Umbrella-Unit:** 18-125  
**Statutory authority:** 36 MRS §576  
**Chapter number/title:** Ch. 202, Tree Growth Tax Law Valuations - 2020  
**Filing number:** 2020-130  
**Effective date:** 6/3/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

There is a statutory requirement that each year the State Tax Assessor determine the 100% valuation for an acre of forestland, according to forest type (softwood, mixed wood, or hardwood) by economic region for parcels classified under the *Tree Growth Law*. The State Tax Assessor must certify his determination and transmit rules to the municipal assessors of each municipality with forestland therein on or before April 1, of each year.

**Basis statement:**

Amended Rule 202 provides updated valuation rates for each forest type by region.

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 values produces no additional cost to the State. The anticipated FY 2020-21 amount appropriated to reimburse anticipated municipal claims for "taxes lost" due to the use of Tree Growth Tax Law values on classified forestland is \$7,600,000.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Bureau of Revenue Services  
**Umbrella-Unit:** 18-125  
**Statutory authority:** 36 MRS §§ 112, 5012(5)  
**Chapter number/title:** Ch. 807, Residency  
**Filing number:** 2020-254  
**Effective date:** 12/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These changes replace the existing Rule 807 definition of “statutory resident” with a definition that references the statutory residency standard in 36 MRS §5102(5)(B) and update the definition of “permanent place of abode” to provide that the residence must be maintained by the individual as a household for the entire tax year. In addition, these changes break out the current section .07, “Resident and nonresident aliens,” into two subsections and provide that the current provisions, now located in subsection A, no longer apply to tax years beginning on or after January 1, 2020. For tax years beginning on or after January 1, 2020, subsection B provides that an individual’s Maine residency and Maine income tax are determined under Maine law, without regard to federal resident or nonresident alien status unless otherwise provided by Maine law. Lastly, these changes update section .08, “Military personnel,” to more accurately and completely reflect current federal law concerning the residency of a military spouse, including the federal election under 50 USC §4001(a)(2) available for tax years beginning on or after January 1, 2018.

**Basis statement:**

The following changes to Rule 807 are being adopted:

The existing definition of “statutory resident” is being replaced with a definition that references the statutory residency standard in 36 MRS §5102(5)(B). This change is being made to ensure consistency between the rule definition and the standard outlined in the statute.

Section .07, “Resident and nonresident aliens,” is being broken out into two subsections. The current provisions, now located in subsection A, no longer apply to tax years beginning on or after January 1, 2020. The new provisions are located in subsection B and provide that, for tax years beginning on or after January 1, 2020, an individual’s Maine residency and Maine income tax are determined under Maine law, without regard to federal resident or nonresident alien status unless otherwise provided by Maine law. This change is because the current rule provision may be adverse to certain taxpayers who would benefit from filing as Maine residents.

Lastly, section .08, “Military personnel,” is being updated to more accurately reflect current federal law concerning residency of a military spouse. This includes the federal election under 50 USC §4001(a)(2) available for tax years beginning on or after January 1, 2018, which permits a military spouse to use the same residence as the service member for purposes of taxation regardless of the marriage date.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Bureau of Revenue Services  
**Umbrella-Unit:** 18-125  
**Statutory authority:** 36 MRS §§ 112, 5217-D  
**Chapter number/title:** Ch. 812, Credit for Educational Opportunity  
**Filing number:** 2020-219  
**Effective date:** 10/21/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for proposing this rule change is to add a new section to Rule 812 to reconcile two provisions in the law governing the Credit for Educational Opportunity (Credit) so that the Credit can be calculated for payments made during periods of forbearance or deferment.

**Basis statement:**

These emergency changes add a new section to Rule 812 to reconcile two provisions in the law governing the Credit for Educational Opportunity (Credit). 36 MRS §5217-D(2)(B) provides that “Forbearance or deferment of loan payments *does not affect eligibility* for the credit under this section” but also provides that “Payment of loan amounts *in excess of the amounts due* during the taxable year does not qualify for the credit.” (emphasis added) The adopted changes reconcile these provisions, permitting Maine Revenue Services to consider the payment amount that would be due but for forbearance or deferment when calculating the Credit. The adopted changes further provide that, if the payment amount due but for forbearance or deferment cannot be established, the benchmark loan payment as determined under 36 MRS §5217-D(1)(A) may be used instead.

**Fiscal impact of rule:**

None. (Impact already accounted for in August 1<sup>st</sup> Revenue Forecast.)



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** Title 28-B  
**Chapter number/title:** Ch. 1, Adult Use Marijuana Program Rule  
**Filing number:** 2020-026  
**Effective date:** 2/20/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The *Marijuana Legalization Act* requires the Department of Administrative and Financial Services (OAFS) to conduct both major substantive and routine technical rulemaking. The Office of Marijuana Policy (OMP), within OAFS, is completing routine technical rulemaking, following emergency adoption, of a rule to establish a regulatory framework governing the licensing of testing facilities in the adult use marijuana industry to protect the health and safety of the public in Maine.

**Basis statement:**

These additions are promulgated to amend and add to the *Adult Use Marijuana Program Rule* promulgated by the Maine Department of Administrative and Financial Services (the Department) specific licensing criteria and additional requirements for the operation of marijuana testing facilities following action by the Legislature in PL 2019 ch. 491 §3, clarifying the scope of the Department's routine technical rulemaking authority regarding marijuana testing facilities. This law went into effect on September 19, 2019.

This rule is promulgated to ensure the independence, professional responsibility and operational capacity of marijuana testing facilities responsible for mandatory testing of all marijuana and marijuana products for retail sale by licensees of the Department's Adult Use Marijuana Program. These additions are intended to protect public health by establishing licensing criteria for marijuana testing facilities and to provide clarity regarding mandatory testing for contaminants and the process by which the Department may require tested marijuana and marijuana products to be destroyed due to failure of such mandatory testing.

This amended rule is promulgated after routine technical rulemaking, including notice, public hearing, and public comment in accordance Title 5 ch. 375 and following consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, and the Department of Agriculture, Conservation and Forestry.

**Fiscal impact of rule:**

This rule allows for the creation of a new kind of business entity, a marijuana Testing Facility. No fiscal impact on newly created entity can be done at this time.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** Title 28-B  
**Chapter number/title:** Ch. 1, Adult Use Marijuana Program Rule  
**Filing number:** 2020-143  
**Effective date:** 6/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The *Marijuana Legalization Act* (Title 28-B ch. 1) requires the Department of Administrative and Financial Services (DAFS) to conduct both major substantive and routine technical rulemaking. In response to PL 2019 ch. 676 (emergency, effective March 23, 2020) the Office of Marijuana Policy (OMP), within DAFS, is proposing to complete routine technical rulemaking, following emergency adoption, of a rule to establish a regulatory framework governing the licensing of sample collector and licensee self-sampling in the adult use marijuana industry to protect the health and safety of the public in Maine.

**Basis statement:**

These additions are promulgated to amend and add to the *Adult Use Marijuana Program Rule*, 18-691 CMR ch. 1, promulgated by the Maine Department of Administrative and Financial Services (the Department) specific licensing criteria and additional requirements for the operation of sample collector licensees and to rescind the prohibition on cultivation facility, products manufacturing facility and marijuana store licensees collecting samples of marijuana and marijuana products for mandatory testing following enactment of PL 2019 ch. 676, *An Act Regarding the Collection of Samples for Testing of Adult Use Marijuana and Adult Use Marijuana Products* (emergency, effective March 23, 2020).

This rule is promulgated to ensure the independence and professional responsibility of sample collector licensees, to establish minimum safety and operating standards for sample collector licensees, and to establish minimum requirements, including the use of a Department-developed sample collection form, sample collection standard operating procedure, and sample collection techniques described in the Best Practices Guide for Sample Collection. The minimum requirements apply to all licensees, including those licenses engaged in "self-sampling". The additions are intended to reduce licensee costs regarding mandatory testing by providing alternatives to marijuana testing facility sample collection services, and are further intended to protect public health and safety by improving the capacity of the marijuana testing infrastructure by reducing sample collection burdens on marijuana testing facilities to allow for additional staff time and resources to conduct mandatory testing, and to provide broader access to mandatory testing by improving the geographic availability of sample collection for mandatory testing.

**Fiscal impact of rule:**

*De minimis.*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** Title 28-B  
**Chapter number/title:** Ch. 1, Adult Use Marijuana Program Rule  
**Filing number:** 2020-204  
**Effective date:** 9/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The *Marijuana Legalization Act* requires the Department of Administrative and Financial Services (DAFS) to conduct both major substantive and routine technical rulemaking. The Office of Marijuana Policy (OMP), within DAFS, is completing routine technical rulemaking, following emergency adoption, of a rule to establish a regulatory framework governing the licensing of sample collectors and licensee self-sampling in the adult use marijuana industry to protect the health and safety of the public in Maine.

**Basis statement:**

These additions are promulgated to amend and add to the *Adult Use Marijuana Program Rule*, 18-691 CMR ch. 1, promulgated by the Maine Department of Administrative and Financial Services (the Department) specific licensing criteria and additional requirements for the operation of sample collector licensees and to rescind the prohibition on cultivation facility, products manufacturing facility and marijuana store licensees collecting samples of marijuana and marijuana products for mandatory testing following enactment of PL 2019 ch. 676, *An Act Regarding the Collection of Samples for Testing of Adult Use Marijuana and Adult Use Marijuana Products* (emergency, effective March 23, 2020).

This rule is promulgated to ensure the independence and professional responsibility of sample collector licensees, to establish minimum safety and operating standards for sample collector licensees, and to establish minimum requirements, including the uniform sample collection, transport and receipt recordkeeping requirements, required use of a Department-developed sample collection standard operating procedure (Appendix A of this rule), and sample collection techniques described in the *Best Practices Guide for Sample Collection*. The minimum requirements apply to all licensees, including those licenses engaged in “self-sampling”. The additions are intended to reduce licensee costs regarding mandatory testing by providing alternatives to marijuana testing facility sample collection services, and are further intended to protect public health and safety by improving the capacity of the marijuana testing infrastructure by reducing sample collection burdens on marijuana testing facilities to allow for additional staff time and resources to conduct mandatory testing, and to provide broader access to mandatory testing by improving the geographic availability of sample collection for mandatory testing. A number of changes to the proposed rules were made in response to public comments received by the Department during the rulemaking public comment period. A spreadsheet of the public comments received and the Department’s response to each comment is included in the rulemaking documents filed by the Department with the Secretary of State and is available from the Department or the Secretary of State upon request.

This rule is effective September 18, 2020 and supersedes the emergency rules amending this chapter which went into effect on June 26, 2020.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** Title 28-B, *specifically* §§ 104, 501  
**Chapter number/title:** **Ch. 3** (*New*), Emergency Rule Regarding the Assessment of Excise Taxes for Adult Use Marijuana Program Cultivation Licensees  
**Filing number:** 2020-183  
**Effective date:** 8/20/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To ensure consistent application of excise taxes regardless of licensee cultivation or manufacturing practices and to uphold the Legislature’s intent to apply a 20% effective tax rate to all adult use marijuana and marijuana products, and mature marijuana plants transferred from the Maine Medical Use of Marijuana Program to the Adult Use Marijuana Program pursuant to 28-B MRS §501(6).

**Basis statement:**

This rule is promulgated by the Maine Department of Administrative and Financial Services (the Department) on an emergency basis to protect the public’s general welfare by ensuring predictability and consistency in the application and receipt of excise taxes in light of novel practices in the Adult Use Marijuana Program that have emerged since the enactment of the excise tax provisions of the *Marijuana Legalization Act*. Enactment of this rule on an emergency basis will ensure that the public’s general welfare is preserved by ensuring that sales, purchases and transfers of adult use marijuana generate excise taxes as anticipated when the *Marijuana Legalization Act* was implemented. This rule provides cultivation facility licensees engaged in the transfer of marijuana flower, marijuana trim or mature marijuana plants that have not been cured, dried, or otherwise prepared in a manner to reduce or eliminate water weight<sup>1</sup> prior to transfer to another licensee a formula for calculating the required excise tax to align that tax with the Legislature’s intended 21.5 percent excise tax rate. This rule ensures that all adult use marijuana and marijuana products are subject to an overall effective tax rate of approximately 20% as was intended by the Legislature pursuant to PL 2017 ch. 409 (emergency, Governor’s veto overridden May 2, 2018).

**Fiscal impact of rule:**

This market has not yet opened so a meaningful fiscal impact cannot be estimated at this time.

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<sup>1</sup> “Water weight” is similar to “moisture content” and these terms are used interchangeably.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** 24-B MRS ch. 1; 22 MRS §569; PL 2019 ch. 676  
**Chapter number/title:** **Ch. 5**, Rules for the Certification of Marijuana Testing Facilities (and Emergency Additions Regarding Sample Collection)  
**Filing number:** **2020-144**  
**Effective date:** 6/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

To protect the public health and safety by establishing a process and guidance of sampling for testing facilities, sample collectors, and licensees choosing to engage in self-sampling.

**Basis statement:**

These additions are promulgated to amend and add to the *Rules for the Certification of Marijuana Testing Facilities*, 18-691 CMR ch. 5, promulgated by the Maine Department of Administrative and Financial Services (the Department) to rescind the prohibition on cultivation facility, products manufacturing facility and marijuana store licensees collecting samples of marijuana and marijuana products for mandatory testing and to provide for acceptance of samples for mandatory testing collected by those licensees or by the newly created sample collector licensees, following enactment of PL 2019 ch. 676, *An Act Regarding the Collection of Samples for Testing of Adult Use Marijuana and Adult Use Marijuana Products* (emergency, effective March 23, 2020).

This rule is promulgated to authorize marijuana testing facilities to accept samples for mandatory testing required by the Adult Use Marijuana Program Rule collected by cultivation facility, products manufacturing facility, marijuana store, and sample collector licensees in addition to those samples collected by marijuana testing facility staff. The additions are intended to reduce licensee costs regarding mandatory testing by providing alternatives to marijuana testing facility sample collection services, and are further intended to protect public health and safety by improving the capacity of the marijuana testing infrastructure by reducing sample collection burdens on marijuana testing facilities to allow for additional staff time and resources to conduct mandatory testing, and to provide broader access to mandatory testing by improving the geographic availability of sample collection for mandatory testing.

**Fiscal impact of rule:**

*De minimis* for the Office of Marijuana Policy, Maine Center for Disease Control, and Program participants (licensees). Potential for reduction in testing costs for licensees.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Office of Marijuana Policy  
**Umbrella-Unit:** 18-691  
**Statutory authority:** 24-B MRS ch. 1; 22 MRS §569  
**Chapter number/title:** Ch. 5, Rules for the Certification of Marijuana Testing Facilities  
**Filing number:** 2020-205  
**Effective date:** 9/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To protect the public health and safety by establishing a process and guidance of sampling for testing facilities, sample collectors, and licensees choose to self-sampling.

**Basis statement:**

These additions are promulgated to amend and add to the *Rules for the Certification of Marijuana Testing Facilities*, 18-691 CMR ch. 5, promulgated by the Maine Department of Administrative and Financial Services (the Department) to rescind the prohibition on cultivation facility, products manufacturing facility and marijuana store licensees collecting samples of marijuana and marijuana products for mandatory testing and to provide for acceptance of samples for mandatory testing collected by those licensees or by the newly created sample collector licensees, following enactment of PL 2019 ch. 676, *An Act Regarding the Collection of Samples for Testing of Adult Use Marijuana and Adult Use Marijuana Products* (emergency, effective March 23, 2020).

This rule is promulgated to authorize marijuana testing facilities to accept samples for mandatory testing required by the Adult Use Marijuana Program Rule collected by cultivation facility, products manufacturing facility, marijuana store, and sample collector licensees in addition to those samples collected by marijuana testing facility staff. The additions are intended to reduce licensee costs regarding mandatory testing by providing alternatives to marijuana testing facility sample collection services, and are further intended to protect public health and safety by improving the capacity of the marijuana testing infrastructure by reducing sample collection burdens on marijuana testing facilities to allow for additional staff time and resources to conduct mandatory testing, and to provide broader access to mandatory testing by improving the geographic availability of sample collection for mandatory testing. A number of changes to the proposed rules were made in response to public comments received by the Department during the rulemaking public comment period. A spreadsheet of the public comments received and the Department's response to each comment is included in the rulemaking documents filed by the Department with the Secretary of State and is available from the Department or the Secretary of State upon request.

This rule is effective September 18, 2020 and supersedes the emergency rules amending this chapter which went into effect on June 26, 2020.

**Fiscal impact of rule:**

No fiscal impact.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Economic and Community Development  
**Umbrella-Unit:** 19-100  
**Statutory authority:** PL 2009 ch. 337  
**Chapter number/title:** Ch. 100, Pine Tree Development Zone Program  
**Filing number:** 2020-008  
**Effective date:** 1/13/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

In 2019 the Pine Tree Development Zone Program was amended to eliminate the requirement that the State Economist provide DECD with an advisory opinion for all PTDZ applications for certification.

**Basis statement:**

The Pine Tree Development Zone Program was established by the Legislature in 2003 and has been amended in 2005, 2009, 2018 and in 2019. The most recent amendment eliminated the requirement that the State Economist provide DECD with an advisory opinion for all PTDZ applications for certification. The Department of Economic and Community Development administers the program. This rule establishes criteria to determine eligibility for the Pine Tree Development Zone program, the process used by businesses to apply for certification and the requirements that must be met and maintained to claim benefits available to a certified business.

The revised rule will provide guidance to businesses participating in the program, relative to certification, the requirements a business must meet and maintain to claim program benefits and remain in program compliance. It will also provide guidance to DECD in the oversight and administration of the program.

**Fiscal impact of rule:**

None.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Economic and Community Development  
**Umbrella-Unit:** 19-100  
**Statutory authority:** PL 2011 ch. 655  
**Chapter number/title:** Ch. 400, Employment Tax Increment Financing  
**Filing number:** 2020-009  
**Effective date:** 1/13/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Significant legislative changes to the Pine Tree Development Zone Program have occurred in 2009, 2018 and 2019 which impact the Employment Tax Increment Financing Program. Major statutory changes include the definition of "qualified employees", the extension of applying for certification under the Pine Tree Development Zone Program to December 31, 2021, and removal of the requirement that the State Economist review applications for Employment Tax Increment Financing certification and provide an opinion to DECD.

**Basis statement:**

The Employment Tax Increment Financing Program was established by the Legislature in 1995 and has been amended in 1999, 2001, 2003, 2005, 2009, 2011, 2013, 2015, 2017 and 2018. The ETIF rule has not been revised since 2006. The Department of Economic and Community Development administers the program. This rule establishes criteria to determine eligibility for the Employment Tax Increment Financing program, the process used by businesses to apply for certification and the requirements that must be met and maintained to claim benefits available to a certified business.

The revised rule will provide guidance to businesses participating in the program, relative to certification, the requirements a business must meet and maintain to claim program benefits and remain in program compliance. It will also provide guidance to DECD in the oversight and administration of the program.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §153  
**Chapter number/title:** **Ch. 11**, Rules Governing Motorcycle Rider Education  
**Filing number:** **2020-155**  
**Effective date:** 7/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To establish the minimum qualification standards, requirements and application procedures for licensing motorcycle rider education schools and instructor. Inspect and monitor motorcycle rider education programs, and site requirement, to assure the Secretary of State established standards are met and maintained. These rules repeal existing rules governing motorcycle rider education in accordance with PL 1995 ch. 50 sub-section 19.

**Basis statement:**

The purpose of these rules is to establish the minimum qualification standards, requirements and application procedures for licensing motorcycle rider education schools and instructor. Inspect and monitor motorcycle rider education programs, and site requirement, to assure the Secretary of State established standards are met and maintained. These rules repeal existing rules governing motorcycle rider education in accordance with PL 1995 ch. 50 sub-section 19. There were substantial law changes regarding Motorcycle Schools and Instructors this last legislative secession. These rule changes bring them up to date with current law. Changes were made in the interest of consumer safety and easing some restrictions on the license holders.

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §153; 10 MRS §1169(11); ch. 217 sub-§§ 1474, 1475  
**Chapter number/title:** **Ch. 103**, Rules for Vehicle Dealers, Auctions, Transporters, Recyclers, Mobile Crushers, and Loaners  
**Filing number:** **2020-156**  
**Effective date:** 7/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule establishes the requirements for licensing and for receipt of registration plates for vehicle dealers, persons in the business of conducting vehicle auctions, vehicle recyclers, mobile crushers, and holders of loaner and transporter plates. The rule sets forth required facilities, equipment, records and hours and describe required application procedures. The rule also establishes requirements for annexes and for secondary locations.

Adopting, amending, or repealing certain parts of this existing rule will provide the Secretary of State with the ability to effectively administer the governing statutes.

**Basis statement:**

This rule establishes the requirements for licensing and for receipt of registration plates for vehicle dealers, persons in the business of conducting vehicle auctions, vehicle recyclers, mobile crushers, and holders of loaner and transporter plates. The rule sets forth required facilities, equipment, records and hours and describe required application procedures. The rule also establishes requirements for annexes and for secondary locations.

The amendment of this rules will bring them up to date with law changes, changes to the application and licensing process, and eliminate outdated requirements, such as the required tool list that has been part of this rules for thirty plus years. These changes will provide an overall improvement to the licensing process, help protect the interest of the consumer, and ease restrictions on the license holder.

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Secretary of State, **Bureau of Corporations, Elections and Commissions**  
**Umbrella-Unit:** **29-250**  
**Statutory authority:** 21-A MRS §783  
**Chapter number/title:** **Ch. 525**, Rules for Administering the Central Issuance and Processing of UOCAVA Absentee Ballots  
**Filing number:** **2020-223**  
**Effective date:** 10/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

Over 5,000 absentee ballots have been submitted to the Secretary of State's office by Maine citizens who are serving in the military or are civilians living overseas, and more are expected to arrive between now and election day. The current rules allow processing to be conducted only on election day and the day before election day, which does not provide sufficient time to perform this important task. Municipal election officials are authorized by statute to begin processing absentee ballots on the 4th day before election day, and that date has been extended for up to 7 days prior to election day on November 3, 2020, pursuant to Executive Order 8 FY20/21. This amendment would allow the same time period for the Department to process UOCAVA ballots.

**Basis statement:**

The Department of the Secretary of State ("Department") is amending this rule pursuant to the Department's emergency rulemaking authority under 5 MRS §8054. The existing rule sets forth the procedures by which the Department issues, receives, processes, and counts absentee ballots for uniformed service voters and overseas voters (known as UOCAVA voters) who are registered to vote in Maine, pursuant to 21-A MRS §783 and the federal *Military and Overseas Voter Empowerment Act*. The Department performs these tasks centrally for UOCAVA voters in much the same way that municipal election officials handle the issuance, receipt, processing and counting of absentee ballots submitted by all Maine voters voting absentee who are not living overseas.

By statute, municipal officials are authorized to process absentee ballots beginning on the 4th day before election day. 21-A MRS §760-B(1). That period has been extended to permit processing up to seven days before election day for the upcoming election on November 3, 2020, pursuant to Executive Order 8 FY20/21, which was issued by the Governor on August 26, 2020, in response to the COVID-19 pandemic.

The Department's duties and responsibilities for the general election have increased and intensified this year due to the pandemic, and staff resources are limited. The number of absentee ballots to be processed centrally also has increased this year, with over 5,000 received to date. The current rule allows processing to begin no earlier than the day before election day, and the Department has determined that this will not allow sufficient time for processing given the concurrent election-related duties that must be performed by a limited number of staff. This amendment will allow the Department to begin processing UOCAVA ballots as early as municipal officials may begin processing other Maine citizens' absentee ballots, pursuant to the Governor's Executive Order.

Immediate adoption of this rule is necessary in order to avoid an immediate threat to public health, safety or general welfare by protecting overseas and military citizens' fundamental right to vote and to have their votes counted during this public health crisis.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Secretary of State, **Maine State Archives**  
**Umbrella-Unit:** **29-255**  
**Statutory authority:** 5 MRS, Chapter 6 §95  
**Chapter number/title:** **Ch. 1**, State and Local Government Agency Records Programs  
**Ch. 2**, State Records Center Facilities and Services  
**Ch. 3**, Imaging State Records  
**Ch. 4**, Rules for the Public Use of Materials and Facilities in the  
Maine State Archives  
**Filing number:** **2020-238 thru 241**  
**Effective date:** 11/29/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Statutory authority for this rule is 5 MRS ch.6 §95. The language for 5 MRS, *An Act to Amend the Archives and Records Management Law*, has been revised; ch. 1 – 4 rules coincide with this Title and need to be revised as well.

**Basis statement:**

Statutory authority for this Rule is 5 MRS ch. 6 §95. The language for 5 MRS, *An Act to Amend the Archives and Records Management Law*, has been revised; ch. 1 –4 rules coincide with this Title and need to be revised as well.

**CHAPTER 1 - STATE AND LOCAL GOVERNMENT AGENCY RECORDS PROGRAMS.** This rule prescribes policies, standards, and procedures for the economical and efficient management of State records. The rule may be amended to comply with law and policy changes.

**CHAPTER 2 - STATE RECORDS CENTER FACILITIES AND SERVICES.** This rule prescribes policies, standards, and procedures to govern the custody, use and withdrawal of agency records transferred to State Records Center facilities. The rule may be amended to comply with law and policy changes.

**CHAPTER 3 - IMAGING STATE RECORDS.** These rules provide (a) standards to be used by State agencies for imaging records; (b) criteria for using digital and microfilm copies; (c) standards for storing digital and microfilm copies of permanent records; and (d) information concerning digital and microfilm services available from the Maine State Archives. The rule may be amended to comply with law and policy changes.

**CHAPTER 4 - RULES FOR THE PUBLIC USE OF MATERIALS AND FACILITIES IN THE MAINE STATE ARCHIVES.** This rule includes the policies and procedures governing the public use of agency records, archives, and deposited records in the custody of the Maine State Archives. This rule also prescribes policies and procedures governing the public use of certain facilities in the Maine State Archives. The rule may be amended to comply with law and policy changes.

**Fiscal impact of rule:**

*(No response.)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 704, 705, 716  
**Chapter number/title:** **Ch. 290**, Standards for Billing, Credit and Collection, and Customer Information for Eligible Telecommunications Carriers Providing Basic Telephone Service  
**Filing number:** **2020-103**  
**Effective date:** 4/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to Ch. 290 of the Commission's rules to implement recently enacted legislation, Public Law 2019 ch. 26.

**Basis statement:**

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, Docket No. 2020-00030, issued on April 14, 2020. Copies of the 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:**

No fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 1301, 3203(9), 3210, 3210-B; PL 2019 ch. 477  
**Chapter number/title:** **Ch. 311**, Portfolio Requirement  
**Filing number:** **2020-091**  
**Effective date:** 5/7/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

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

**Basis statement:**

The Public Utilities Commission finally adopts amendment to Section 4(B) of ch. 311, the PUC portfolio requirement rule, to implement recently enacted legislation (Public Law 2019 ch. 477 – *An Act to Reform Maine’s Renewable Portfolio Standard*).

**Fiscal impact of rule:**  
Minimal.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 1301,3203(9), 3210, 3210-B; PL 2019  
ch. 477  
**Chapter number/title:** **Ch. 311**, Portfolio Requirement  
**Filing number:** **2020-245**  
**Effective date:** 12/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

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, Docket No. 2020-00212, issued on November 13, 2020. Copies of the 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:**  
No fiscal impact.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 1301; PL 2019 ch. 298  
**Chapter number/title:** **Ch. 319**, Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires Alternative Coordinator  
**Filing number:** **2020-096**  
**Effective date:** 4/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts an emergency rule, ch. 319, pursuant to 5 MRS §8054 to implement recently enacted legislation, Public Law 219 ch. 298. Emergency rules may be effective for up to 90 days. Accordingly, the Commission will complete a rulemaking process regarding ch. 319 within that timeframe.

**Basis statement:**

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, Docket No. 2020-00085, issued on April 8, 2020. Copies of the 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:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 1301; PL 2019 ch. 298  
**Chapter number/title:** **Ch. 319**, Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires Alternative Coordinator  
**Filing number:** **2020-161**  
**Effective date:** 7/21/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to the Commission's *Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires Alternative Coordinator* (ch. 319). This rulemaking proceeding follows the Commission's adoption of an emergency rule on this topic.

**Basis statement:**

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, Docket No. 2020-00152, issued on July 9, 2020. Copies of the 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:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A §§ 104, 111, 2305-A, 3104-A, 3106; PL 2019 ch.104  
**Chapter number/title:** **Ch. 320**, Electric Transmission and Distribution Utility Service Standards  
**Filing number:** **2020-113**  
**Effective date:** 5/6/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to ch. 320, *Electric Transmission and Distribution Utility Service Standards*. The amendments implement the legislative directives pursuant to Public Law 2019 ch. 104, *An Act to Establish Minimum Service Standards for Electric Utilities* (codified at 35-A MRS §3106).

**Basis statement:**

The factual and policy basis for this Chapter is set forth in the Commission's Order Adopting Final Rule and Statement of Factual and Policy Basis, Docket No. 2019-00258, issued on April 23, 2020. Copies of the 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:**

No fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Maine Public Utilities Commission  
**Umbrella-Unit:** 65-407  
**Statutory authority:** 35-A MRS §§ 104, 111; PL 2019 ch. 478  
**Chapter number/title:** Ch. 324, Small Generator Interconnection Procedures  
**Filing number:** 2020-050  
**Effective date:** 3/15/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to the Commission's Small Generator Interconnection Procedures Rule (ch. 324). These amendments ensure the timeliness of the small generator interconnection process under ch. 324 as directed by the Legislature pursuant to Public Law 2019 ch. 478.

**Basis statement:**

The factual and policy basis for this rule is set forth in the Commission's Order Amending Rule and Statement of Factual and Policy Basis, Docket No. 2020-00004, issued on March 6, 2020. 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, 101 Second Street, Hallowell, Maine 04347; 18 State House Station, Augusta, Maine 04333-0018.

**Fiscal impact of rule:**

No fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission (PUC)**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111  
**Chapter number/title:** **Ch. 440**, Gas Utility Meter Performance, Accuracy, Testing, and Related Standards (*New*)  
**Filing number:** **2020-005**  
**Effective date:** 1/11/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts ch. 440, *Gas Utility Meter Performance, Accuracy, Testing and Related Standards*. This rule establishes meter performance, accuracy and testing standards for gas utilities and establishes protocols for converting metered usage to Therms for the purpose of billing customers.

**Basis statement:**

The factual and policy basis for this Chapter is set forth in the Commission's Order Adopting Rule, Docket No. 2019-00138 issued on December 20, 2019. Copies of the 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.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 704, 716, 1308  
**Chapter number/title:** **Ch. 660**, Consumer Protection Standards for Water Utilities  
**Filing number:** **2020-104**  
**Effective date:** 4/28/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to Chapter 660 of the Commission's rules to implement recently enacted legislation, Public Law 2019 ch. 26.

**Basis statement:**

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, Docket No. 2020-00031, issued on April 14, 2020. Copies of the 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:**

No fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Public Utilities Commission**  
**Umbrella-Unit:** **65-407**  
**Statutory authority:** 35-A MRS §§ 104, 111, 704, 1308; PL 2019 ch. 26, ch. 81, ch. 88  
**Chapter number/title:** **Ch. 815**, Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities  
**Filing number:** **2020-028**  
**Effective date:** 2/23/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to ch. 815, *Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities*. These amendments implement the legislative directives pursuant to Public Law 2019 ch. 26 - *An Act to Improve the Record Keeping of Utilities and the Public Utilities Commission* (codified at 35-A MRS §716); Public Law 2019 ch. 81 - *An Act to Direct Electric Utilities to Provide Comparative Usage Data on Customer Billing Statements* (codified at 35-A MRS §3106); and Public Law 2019 ch. 88 - *An Act to Ensure Accurate Explanations of Electric Bills* (codified at 35-A MRS §3106).

**Basis statement:**

The factual and policy basis for this Chapter is set forth in the Commission's Order Amending Rule and Statement of Factual and Policy Basis, Docket No. 2019-00186, issued on February 5, 2020. Copies of the 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:**

No fiscal impact.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Maine Public Utilities Commission (PUC),  
**Emergency Services Communications Bureau**  
**Umbrella-Unit:** **65-624**  
**Statutory authority:** 25 MRS §2927(3-C)(A)  
**Chapter number/title:** **Ch. 5**, Standards for the Implementation and Administration of  
Emergency Fire Dispatch Protocols  
**Filing number:** **2020-061**  
**Effective date:** 3/31/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Public Utilities Commission adopts amendments to its emergency fire dispatch protocols as a result of discussions in a stakeholder group convened pursuant to Resolves 2019, c. 24 (MPUC Docket No. 2019-00159).

**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, Docket No. 2019-00243, issued on March 18, 2020.

**Fiscal impact of rule:**

No fiscal impact.





**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 8704 sub-§4, 8706 sub-§2; PL 2019 ch. 470  
**Chapter number/title:** **Ch. 10**, Determination of Assessments  
**Filing number:** **2020-018**  
**Effective date:** 2/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Pursuant to PL 2019 ch. 470, this adopted rule change adds prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers to the list of health care services entities required to pay annual assessments to support the operational costs of the Maine Health Data Organization.

**Basis statement:**

Ch. 10 identifies the health care providers, health insurance entities, carriers that provide only administrative services for a plan sponsor, third-party administrators, prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers required to pay annual assessments for the operational costs of the Maine Health Data Organization (MHDO). This chapter also establishes the process for determining the individual assessments for each entity and the time frame for payment.

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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 §§ 8705-A; PL 2019 ch. 470  
**Chapter number/title:** **Ch. 100**, Enforcement Procedures  
**Filing number:** **2020-134**  
**Effective date:** 7/3/2020  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Pursuant to PL 2019 ch. 470, this rule change adds prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers to the list of health care services entities who may be fined for failure to file prescription drug price data; failure to pay the annual assessment; and for intentional or knowing failure to protect the disclosure of confidential or privileged data.

**Basis statement:**

Ch. 100 establishes a schedule of fines and other enforcement actions for failure to file clinical, quality, financial, restructuring, health care claims and prescription drug price data; failure to pay the annual assessment; and for intentional or knowing failure to protect the disclosure of confidential or privileged data.

The changes (except for corrections) are a result of the new requirements defined in PL 2019 ch. 470. "An Act to Further Expand Drug Price Transparency."

The MHDO Board met on May 23, 2019 and authorized the MHDO to initiate rulemaking to ch. 100, as required under 22 MRS §8705-A. A public hearing was held on November 21, 2019 with a 10-day public comment period of December 2, 2020. The following public comments were received and on January 16, 2020 the Board provisionally adopted this major substantive rule. The provisionally adopted rule was submitted to the Maine State Legislature for its review, in accordance with 5 MRS §8072. On March 10, 2020, the Maine State Legislature authorized final adoption of the rule, with an amendment in Section 2 of paragraph M to change the cross reference in the definition of "pharmacy benefits manager" to Title 24-A §4347 sub-§17.

**Fiscal impact of rule:**

*(No response)*

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*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:** **2020-217**  
**Effective date:** 10/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule change will update the current definitions of Pharmacy Benefit Manager (consistent with statutory revision made earlier this year), resume collection of race and ethnicity data, and add fields to indicate if a provider is in a payer's network.

**Basis statement:**

The Maine Health Data Organization is authorized by statute to collect health care data. The purpose of this chapter is to explain the provisions for filing health care claims data sets from all third-party payers, third-part administrators, Medicare health plan sponsors and pharmacy benefits managers.

**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, 2020 to December 31, 2020**  
*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 §§ 8704 sub-§4, 8709  
**Chapter number/title:** **Ch. 300**, Uniform Reporting System for Hospital Financial Data  
**Filing number:** **2020-052**  
**Effective date:** 3/16/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change will add the requirement that hospitals and parent entities be required to submit consolidated financial data along with organizational information. This change will provide greater transparency to the public into the finances of the hospital and parent entities.

**Basis statement:**

The Maine Health Data Organization is authorized by statute to collect health care data. This chapter governs the provisions for the identification of entities required to file financial data to the MHDO; including data content, format, medium, submission schedule, reporting standards; and compliance.

The MHDO Board met on May 23, 2019 and authorized the MHDO to initiate rulemaking to ch. 300. A public hearing was held on November 21, 2019 with a MHDO staff recommended comment (see below) to the amended rule. On March 5, 2020 the MHDO Board approved the amended rule as revised.

**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, 2020 to December 31, 2020**  
*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(1), 8705-A and 8705-A(3), 8731, 8732, 8733, 8734, 8735, 8737  
**Chapter number/title:** **Ch. 570** (*New*), Uniform Reporting System for Prescription Drug Price Data Sets  
**Filing number:** **2020-019**  
**Effective date:** 2/4/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

PL 2019 ch. 470, "An Act to Further Expand Drug Price Transparency" requires prescription drug manufacturers to report to the Maine Health Data Organization no later than January 30, 2020 and annually thereafter, on prescription drug prices when the manufacturer has during the prior calendar year increased the wholesale acquisition cost of a brand-name drug by more than 20% per pricing unit, increased the wholesale acquisition cost of a generic drug that costs at least \$10 per pricing unit by more than 20% per pricing unit or introduced a new drug for distribution in this State when the wholesale acquisition cost is greater than the amount that would cause the drug to be considered a specialty drug under the Medicare Part D program.

Prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers are also required to provide pricing component data per pricing unit of a drug within 60 days of a request by the Maine Health Data Organization. This rule defines "pricing component data" as data unique to each manufacturer, wholesale drug distributor or pharmacy benefit manager that evidences the cost to make a prescription drug available to consumers and the payments received by each manufacturer, wholesale drug distributor or pharmacy benefit manager to make a prescription drug available to consumers, taking into account any price concessions, that is measured uniformly among and between the entities.

**Basis statement:**

The Maine Health Data Organization (MHDO) is authorized by statute to collect health care data, including prescription drug price data. The purpose of this chapter is to explain the provisions for filing prescription drug price sets from prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers.

The MHDO Board met on May 23, 2019 and authorized the MHDO to initiate rulemaking to ch. 570 (22 MRS §8704 sub-§1; §8705-A; §8737). A public hearing was held on November 21, 2019 with a 10-day public comment period. This is a routine technical rule only until April 1, 2020 then it is a major substantive rule (PL 2019 ch.470 §10).

**Fiscal impact of rule:**

This bill requires prescription drug manufacturers to report to the Maine Health Data Organization (MHDO) on prescription drug information under certain situations or when requested by MHDO and requires MHDO to annually produce and post a report of this information on its website. Any costs to MHDO to carry out these provisions are expected to be minor and can be absorbed within budget resources. The bill also authorizes MHDO to collect an annual assessment on drug manufacturers of \$500. Additional revenues collected from these assessments are expected to increase Other Special Revenue Fund revenues by minor amounts.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Kim Wallace Adaptive Equipment Loan Program Fund Board**  
**Umbrella-Unit:** **94-178**  
**Statutory authority:** 10 MRS §374  
**Chapter number/title:** **Ch. 502**, Procedures Governing Administration of the Adaptive Equipment Loan Program Fund Board  
**Filing number:** **2020-054**  
**Effective date:** 3/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The purpose of this amendment is to update the procedures of the Board in accordance with changes pursuant to PL 2016 ch. 412, which allows the Board to contract with a financial service provider which approves or denies loan applications, with a right to appeal to the Board.

**Basis statement:**

The Kim Wallace Adaptive Equipment Loan Program Board, established pursuant to 10 MRS §373, consists of 9 members appointed by the Governor. The Board administers the Kim Wallace Adaptive Equipment Loan Program, which provides funding for loans to qualified borrowers within the State in order to acquire adaptive equipment designed to assist persons with disabilities to improve their independence.

From the inception of the program in 1987 until 2016, the Board approved or denied loan applications, after review and recommendation by the Finance Authority of Maine, in accordance with 10 MRS §374.

Pursuant to PL 2016 ch. 412, the legislature amended the laws governing the oversight and administration of the program fund and allowed the Board to contract with a financial services provider which approves or denies loan applications, with a right to appeal to the Board. The rule change sets forth the procedures for appeals to the Board in the event of a denial of a loan by the financial service provider. The rule change also clarifies and simplifies the procedures of the Board.

The Board reviewed its existing rule and considered changes to be made to its procedures in accordance to changes made to approval of loan in accordance with PL 2016 ch. 412. The Board consulted with the Office of the Attorney General during the development of these amendments to ensure consistency with legal requirements. The Board consulted with the State Treasurer and its financial services provider during the development of these amendments to ensure that the procedures in the Rule are compatible with operations on the ground.

**Fiscal impact of rule:**

*(No response)*





**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Baxter State Park Authority**  
**Umbrella-Unit:** **94-293**  
**Statutory authority:** 12 MRS §903.1  
**Chapter number/title:** **Ch. 1**, Baxter State Park Rules and Regulations  
**Filing number:** **2020-038**  
**Effective date:** 3/9/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement / summary:**

Existing **Rule 4.5** is amended to provide enforceable requirements for Baxter State Park visitors to properly store food, garbage, and scented items in a bear-safe manner; there are perennial issues with bear-human interactions within the Park.

**Fiscal impact of rule:**  
N/A



**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 202**, Medical Board  
**Filing number:** **2020-255**  
**Effective date:** 12/26/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
Repeal and replace Board rule ch. 202.

**Basis statement:**

The proposal for rule-making was noticed on October 14, 2020. No public hearing was held. No members of the public submitted written comments prior to the November 20, 2020 comment deadline.

The proposal was to repeal and replace the rule. The proposed replacement rule reflects current law, eliminates unnecessary language that repeats statutory provisions, and clarifies that the board can appoint an entity whose medical-provider employees would constitute the Medical Board.

**Fiscal impact of rule:**  
None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 511**, Standards for Actively Seeking Work  
**Filing number:** **2020-093**  
**Effective date:** 4/14/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 1729(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work.

**Basis statement:**

The rule was amended on an emergency basis on April 9, 2020, to temporarily suspend the requirements for members in the actively seeking work program because of the difficulty and risk involved in seeking employment during the COVID-19 crisis.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 511**, Standards for Actively Seeking Work  
**Filing number:** **2020-157**  
**Effective date:** 7/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 1729(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work.

**Basis statement:**

The proposal for rule-making was noticed on May 20, 2020. No public hearing was held. No members of the public submitted written comments prior to the June 19, 2020 comment deadline.

The amendment temporarily suspends the requirements for members in the actively seeking work program because of the difficulty and risk involved in seeking employment during the COVID-19 crisis. The requirements are suspended for the period starting March 1, 2020 and continuing until 30 days after the termination of the state of emergency declared by the Governor in accordance with title 37- B section 742 due to the outbreak of COVID-19.

At the Board's regular meeting held on July 9, 2020, Ken Williams made the motion, seconded by Mark Brunton, to adopt the amended rule and its basis statement. Voted unanimously by those Board members present.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 601**, Group Life Insurance  
**Filing number:** **2020-094**  
**Effective date:** 4/14/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This rule sets out the categories of employees eligible to participate in the Group Life Insurance Program administered by the Maine Public Employees Retirement System, and other regulations relating to the Program.

**Basis statement:**

The rule was amended on an emergency basis on April 9, 2020, to prevent a lapse of insurance coverage for those who are on lay-off or unpaid leave and who miss insurance premiums. The COVID-19 crisis has the potential to greatly increase the number of employees in this status who have not received notice of the need to pay premiums or who are temporarily unable to pay premiums.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 601**, Group Life Insurance  
**Filing number:** **2020-158**  
**Effective date:** 7/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule sets out the categories of employees eligible to participate in the Group Life Insurance Program administered by the Maine Public Employees Retirement System, and other regulations relating to the Program.

**Basis statement:**

The proposal for rule-making was noticed on May 20, 2020. No public hearing was held. No members of the public submitted written comments prior to the June 19, 2020 comment deadline.

Employees who have been laid-off or are on unpaid leave do not have Group Life Insurance premiums deducted from their pay and must take affirmative steps to pay premiums.

The amendment specifies that, commencing January 1, 2020, for these employees, premiums are due within 60 days after returning to paid status. The amendment also provides that, in the event of the participant's death within the 60-day period, premiums will be deducted from any benefit payments. The amendment also clarifies that any claim arising during a period of time for which due premiums have not been paid is void. These amendments reduce the likelihood of a lapse in coverage for employees in unpaid status.

At the Board's regular meeting held on July 9, 2020, Ken Williams made the motion, seconded by Mark Brunton, to adopt the amended rule and its basis statement. Voted unanimously by those Board members present.

**Fiscal impact of rule:**

None



**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 702**, Appeals of Decisions of the Executive Director  
**Filing number:** **2020-095**  
**Effective date:** 4/14/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This rule sets out the process for appeals of decisions of the Executive Director to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board.

**Basis statement:**

The rule was amended on an emergency basis on April 9, 2020 to require appeal hearings to be conducted by audio or video conference. During the COVID-19 crisis, social distancing is required or encouraged to prevent spread of the virus. Conducting hearings remotely will help with this effort and to protect the health of hearing participants.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 702**, Appeals of Decisions of the Executive Director  
**Filing number:** **2020-159**  
**Effective date:** 7/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule sets out the process for appeals of decisions of the Executive Director to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board.

**Basis statement:**

The proposal for rule-making was noticed on May 20, 2020. No public hearing was held. No members of the public submitted written comments prior to the June 19, 2020 comment deadline.

This rule sets out the process for appeals of decisions of the Executive Director to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board.

The amendment requires that all hearings will be conducted using audio or video conferencing during the state of emergency declared by the Governor in accordance with Title 37-B section 742 due to the outbreak of COVID-19 and continuing for 30 days thereafter. Hearings may be conducted in person after the requirement to conduct hearings by audio or video conferencing has expired. During the COVID-19 crisis, social distancing is required or encouraged to prevent spread of the virus. Conducting hearings remotely will help with this effort and to protect the health of hearing participants.

At the Board's regular meeting held on July 9, 2020, Ken Williams made the motion, seconded by Mark Brunton, to adopt the amended rule and its basis statement. Voted unanimously by those Board members present.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** **Maine Public Employees Retirement System**  
**Umbrella-Unit:** **94-411**  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** **Ch. 803**, Participating Local District Consolidated Retirement Plan  
**Filing number:** **2020-160**  
**Effective date:** 7/18/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, local districts may only join the Plan or change their plans effective the next July 1 or January 1. Due to delays in meetings of local districts' governing bodies resulting from the COVID-19 crisis, local districts may be unable to meet these deadlines.

**Basis statement:**

The proposal for rulemaking was noticed on May 20, 2020. No public hearing was held. No members of the public submitted written comments prior to the June 19, 2020 comment deadline.

Under the current rule, local districts may only join the Plan or change their plans effective the next July 1 or January 1. Due to delays in meetings of local districts' governing bodies resulting from the COVID-19 crisis, local districts may be unable to meet these deadlines. The amendment grants the Executive Director temporary authority to permit a local district to join the Plan or change their plans on dates other than July 1 or January 1, or to do so retroactively to July 1, 2020.

At the Board's regular meeting held on July 9, 2020, Ken Williams made the motion, seconded by Mark Brunton, to adopt the amended rule and its basis statement. Voted unanimously by those Board members present.

**Fiscal impact of rule:**

None

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State, pursuant to 5 MRSA, §8053, sub-§5*

**Agency name:** Maine Public Employees Retirement System  
**Umbrella-Unit:** 94-411  
**Statutory authority:** 5 MRS §17103(4)  
**Chapter number/title:** Ch. 803, Participating Local District Consolidated Retirement Plan  
**Filing number:** 2020-236  
**Effective date:** 11/25/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, except with a time limited exception during the COVID-19 crisis, local districts may only join the Plan or change their plans effective July 1, or January 1. These restrictions can create timing and administrative complexities for local districts and the System.

**Basis statement:**

The proposal for rule-making was noticed on September 9, 2020. No public hearing was held. No members of the public submitted written comments prior to the October 16, 2020 comment deadline.

Under the current rule, except with a time limited exception during the COVID-19 crisis, local districts may only join the Plan or change their plans effective the next July 1 or January 1. The proposed amendment permits local districts to make these changes at any time and establishes the first of the month following the date that the agreement for participation is signed by the Executive Director and the authorized representative of the local district as the effective date of the change.

The proposed amendment also makes a correction to the military service provision to align with State law.

At the Board's regular meeting held on November 12, 2020, Henry Beck made the motion, seconded by Shirrin Blaisdell, to adopt the amended rule and its basis statement. Voted unanimously by those Board members present.

**Fiscal impact of rule:**

None



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Finance Authority of Maine  
**Umbrella-Unit:** 94-457  
**Statutory authority:** 10 MRS ch. 110 sub-ch. 1 §969-A(14); sub-ch. 9 §1100-T  
**Chapter number/title:** Ch. 307, Maine Seed Capital Tax Program, *Amendment 9*  
**Filing number:** 2020-212  
**Effective date:** 10/5/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The changes adopted by this rule amendment are based on changes to the governing statute, 10 MRS §1100-T, made by PL 2020 ch. 616, which became law on March 18, 2020. The law expanded the annual limit on credits from \$5 million to \$15 million, reduced the credit from 50% to 40%, reduced the amount any company could receive in qualifying investments under the program cumulatively from \$5,000,000 to \$3.5 million, and instituted a new limit on annual qualifying investments of a single company of \$2 million. The new law also increased the reporting requirements on participating companies.

The rule amendment makes these changes, but also increases application fees to more appropriately reflect the significant work involved in processing applications

None comments were received during the comment period.

**Fiscal impact of rule:**  
None anticipated.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Finance Authority of Maine  
**Umbrella-Unit:** 94-457  
**Statutory authority:** PL 2019 ch. 447  
**Chapter number/title:** Ch. 619 (New), Foreign Credentialing and Skills Recognition Revolving Loan Program  
**Filing number:** 2020-006  
**Effective date:** 1/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule is necessary to implement the Foreign Credentialing and Skills Recognition Revolving Loan Program established by the Legislature in Public Law 2019 ch. 447.

**Basis statement:**

The rule is necessary in order for the Authority to implement the Foreign Credentialing and Skills Recognition Revolving Loan Program established by PL 2019 ch. 447 and set forth at 10 MRS §1100-AA. The program is a revolving loan program for eligible individuals residing in Maine who meet the program definition of “immigrant” and who have incurred or will incur eligible costs related to obtaining work permits or achieving work readiness upon receipt of a work permit. The rule sets forth the requirements for applying for and receiving a program loan, including loan amounts, applicable fees, and repayment.

Two written comments, similar in nature, were received from the public regarding Section 4(C) of the proposed rule, which relates to disbursement of funds. Beth Stickney, Esq., Executive Director of the Maine Business Immigration Coalition (MEBIC), and Sally Sutton, Esq., Program Coordinator of the New Mainers Resource Center, both submitted comments regarding Section 4(C) of the rule regarding loan disbursement. They suggested that loans be disbursed by the Authority in a manner that best accommodates the intended users of this program, many of whom, according to Ms. Stickney, are “unbanked.” They recommend that the Authority consider alternative methods of disbursing funds that differ from a typical check, such as a pre-paid debit or credit card or a mobile phone application or “app.”

The members of the Authority’s Board of Directors considered the comments, but declined to incorporate them since the rule provision as drafted is sufficient to allow for utilization of the suggested methods, if the Authority were to determine that such methods are feasible.

In accordance with 5 MRS §8052(4) and Executive Order No. 4 FY 19/20, the Authority has considered:

1. the environmental and social impacts of the rule, with the goal of prioritizing the health safety and welfare of Maine people, and find that the rule will have no negative environmental or social impacts requiring such prioritization; and
2. the economic and fiscal impacts of the rule, including the extent to which other laws and regulations address the rule subject matter and the impact on employers in retaining and attracting a skilled workforce, and find that (a) the rule will have no adverse economic or fiscal impact; (b) no other laws or regulations address the rule subject matter; and (c) the rule will have no adverse effect on employers’ ability to retain and attract a skilled workforce.

**Fiscal impact of rule:**

None anticipated, except certain agency costs in administering the program, which are allowed for by the statute and rule. The rule will not impose any costs on municipalities or counties.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine State Housing Authority**  
**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §§ 4741(1) and (14); Section 42 of the Internal Revenue Code of 1986, as amended  
**Chapter number/title:** **Ch. 16**, Low Income Housing Tax Credit Rule  
**Filing number:** **2020-152**  
**Effective date:** 7/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule is the qualified allocation plan for allocating and administering the federal low-income housing tax credit in the State of Maine, including without limitation the State's housing credit ceiling for calendar years 2021 and 2022, as required pursuant to Section 42 of the *Internal Revenue Code*. The rule repeals and replaces the current ch. 16, *Low-Income Housing Tax Credit Rule*, regarding the allocating and administering of the credit for calendar year 2020.

**Basis statement:**

This rule is the qualified allocation plan for allocating and administering federal low income housing tax credits ("LIHTC") in the State of Maine, which MaineHousing, as the State's designated housing credit agency, is required to adopt pursuant to [Section 42](#) of the Internal Revenue Code and the above-referenced sections of the *Maine Housing Authorities Act*.

**Fiscal impact of rule:**

The 2021 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$32,600,000 of private investor capital, and the 2022 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$30,600,000 of private investor capital. Additional capital may be generated through the allocation of federal low-income housing tax credits for housing that is financed with tax-exempt facility bonds pursuant to Section 42(h)(4) of the *Internal Revenue Code*. The capital generated by the syndication of the federal low-income housing tax credits will be used to develop affordable housing for low- and very low-income persons in the State of Maine. The rule will not impose any costs on municipalities or counties for implementation or compliance.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine State Housing Authority**  
**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §§ 4722(1)(W), 4741(1) and (15), 4991  
*et seq.*; 42 USCA §§ 8621 *et seq.*  
**Chapter number/title:** **Ch. 24**, Home Energy Assistance Program Rule  
**Filing number:** **2020-153**  
**Effective date:** 7/12/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

This replacement rule repeals and replaces in its entirety the current *Horne Energy Assistance Program Rule*. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Supplemental Benefits, weatherization, and heating system repair and replacement funds to low-income households in the State of Maine. This replacement rule: amends the definitions of "Dwelling Unit", "Live-in Care Attendant", and "Priority Applicant"; allows expired government-issued photo identification cards to be accepted as documentation for a Primary Applicant; expands Dwelling Unit eligibility; modifies the amount of a Household's HEAP Benefit that can be recuperated to address Overpayments; establishes the Benefit amount available for eligible Households that have no calculated energy costs; expands allowable costs for Energy Crisis Intervention Program funds; removes the requirement that all Central Heating Improvement Program jobs over \$1,000 have a final inspection; allows Subgrantees to charge support costs associated with taking and processing HEAP Applications to Administrative dollars; removes the option to have HEAP Benefits retroactively applied to Horne Energy deliveries that have already been paid; adjusts the minimum monthly payment amount for Households entering into a repayment agreement for an Overpayment; and clarifies that HEAP Applicants will be provided an opportunity for a fair administrative hearing if they dispute the amount of their HEAP Benefit. Other changes correct errors or provide clarification to the previous version of the rule.

**Fiscal impact of rule:**  
None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine State Housing Authority**  
**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §§ 4722, 4741.1; 36 MRS §5219-WW  
**Chapter number/title:** **Ch. 35 (New)**, State Low Income Housing Tax Credit Rule  
**Filing number:** **2020-218**  
**Effective date:** 10/13/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

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

**Basis statement:**

The state low income housing tax credit law was enacted to provide funds for the development and preservation of multi-family affordable housing. Under the law, the amount of the state low income housing tax credit a project receives for new rental units is equal to the amount of federal low income housing tax credits the project receives in conjunction with the issuance of tax exempt bonds. At least 10% of the credit to be allocated in a calendar year, must be set aside for qualified rural development preservation projects that incur at least \$100,000 in improvements and do not receive federal low income housing tax credits. The law requires MaineHousing to allocate and administer the credit and define “rural areas.”

**Fiscal impact of rule:**

\$10,000,000 per year tax credits.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2020 to December 31, 2020**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** **Maine Rural Development Authority**  
**Umbrella-Unit:** **99-626**  
**Statutory authority:** 5 MRS §§ 13120-L, 13120-R  
**Chapter number/title:** **Ch. 3**, Rural Manufacturing and Industrial Site Redevelopment Program, *Amendment 1*  
**Filing number:** **2020-132**  
**Effective date:** 6/7/2020  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To create the parameters for and implement a new round of grants under the program.

**Basis statement:**

This rule amendment makes certain changes to implement a second round of Program grant awards in connection with a sub-grant program known as the “Increasing Prosperity in Maine’s Forest Economy Communities” sub-grant program approved for funding from the Northern Border Regional Commission pursuant to a Grant Agreement dated August 13, 2019 between the Northern Border Regional Commission and the Maine Development Foundation. The rule creates a sub-category of projects that could be eligible for this second round of grants, and establishes the procedures, guidelines and criteria for application, review, and award of such grants, within the confines of the Program statute, 5 MRS §13120-R(1).

Only two comments were received during the public comment period. The first comment was from the Town Manager from the Town of Madison, Tim Curtis, who expressed general support for the amendment. The second comment was from Emily Atkins, Assistant Attorney General with the Maine Attorney General’s Office, who suggested certain minor language clarifications, which were made but are not substantive.

**Fiscal impact of rule:**

None; any additional costs will be absorbed by existing agency resources.

