

MAINE STATE LEGISLATURE

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Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Shenna Bellows
Secretary of State

Julie L. Flynn
Deputy Secretary of State

February 1, 2022

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

Dear Ms. Gresser,

Maine Revised Statutes Title 5 §8053-A sub-§5, provides that by February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council with annotated lists, by agency, of all rules adopted by each agency in the previous calendar year. I am pleased to present the report for 2021.

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 2021, there were 262 rule adoption filings, 6 more than 2020. 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	Dept. of Agriculture, Conservation and Forestry	32	31	1	12	20
02	Dept. of Professional and Financial Regulation	27	27	0	0	27
03	Dept. of Corrections	5	5	0	1	4
05	Dept. of Education	1	1	0	0	1
06	Dept. of Environmental Protection	16	16	0	0	16
09	Dept. of Inland Fisheries and Wildlife	12	12	0	0	12
10, 14	Dept. of Health and Human Services	45	35	10	12	33
12	Dept. of Labor	5	5	0	0	5
13	Dept. of Marine Resources	25	25	0	9	16

Umbrella number	Agency	Total Adopt	Routine Technical	Major Substantive	Emergency	Non Emergency
15	Dept. of Defense, Veterans and Emergency Management	1	1	0	0	1
16	Dept. of Public Safety	56	45	11	7	49
17	Dept. of Transportation	1	1	0	0	1
18	Dept. of Administrative and Financial Services	12	12	0	0	12
19	Dept. of Economic and Community Development	2	2	0	0	2
65	Public Utilities Commission	7	6	1	1	6
90-590	Maine Health Data Organization	5	4	1	0	5
94-411	Maine Public Employees Retirement System	4	4	0	0	4
94-457	Finance Authority of Maine	1	1	0	0	1
94-649	Maine Commission on Indigent Legal Services	2	1	1	1	1
99-346	Maine State Housing Authority	1	1	0	0	1
99-639	ConnectMaine Authority	2	2	0	0	2
	Totals for 2021	262	237	25	43	219

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 207-624-7650.

Sincerely,



Shenna Bellows
Secretary of State

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-172	01-001	Department of Agriculture, Conservation and Forestry	Ch. 31	Rules for the Operation of Potato Marketing Improvement Fund	2017 PL ch. 6; 7 MRS ch. 103 Article 1-A; 10 MRS §1023-N	Routine Technical	No	8/29/2021
2021-173	01-001	Department of Agriculture, Conservation and Forestry	Ch. 252	Rules Governing Seed Certification in the State of Maine	7 MRS ch. 401 §§ 2101-2105; 7 MRS ch. 1 §12; 7 MRS §411 §2352	Routine Technical	No	8/29/2021
2021-038	01-001	Department of Agriculture, Conservation and Forestry	Ch. 268	Pine Shoot Beetle Quarantine <i>(Repeal)</i>	7 MRS §§ 2301-2303	Routine Technical	No	2/23/2021
2021-039	01-001	Department of Agriculture, Conservation and Forestry	Ch. 271	Gypsy Moth Quarantine <i>(Repeal)</i>	7 MRS §§ 2301-2303	Routine Technical	No	2/23/2021
2021-083	01-001	Department of Agriculture, Conservation and Forestry	Ch. 275	Emerald Ash Borer Quarantine	7 MRS §§ 2301-2303	Routine Technical	No	4/21/2021
2021-003	01-001	Department of Agriculture, Conservation and Forestry	Ch. 329	Rule Governing Maine Milk and Milk Products	7 MRS §2910	Routine Technical	No	1/12/2021
2021-028	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #02-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	1/31/2021
2021-045	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #03-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	2/28/2021
2021-064	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #04-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	4/4/2021
2021-089	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #05-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	5/2/2021
2021-111	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #06-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	5/30/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-137	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #07-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	7/4/2021
2021-151	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #08-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	8/1/2021
2021-171	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #09-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	8/29/2021
2021-192	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #10-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	10/3/2021
2021-222	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #11-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	10/31/2021
2021-239	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #12-21	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	11/28/2021
2021-260	01-015	Department of Agriculture, Conservation and Forestry, Maine Milk Commission	Ch. 3	Schedule of Minimum Prices, Order #01-22	5 MRS §8054; 7 MRS §2954	Routine Technical	Yes	1/2/2022
2021-138	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 7	Racing	8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279, 279-A, 279-E, 281, 298	Routine Technical	No	7/4/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-139	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 9	Sire Stakes	8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279, 279-A, 279-E, 281, 298	Routine Technical	No	7/4/2021
2021-065	01-017	Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission	Ch. 13	Pari-Mutuel Wagering	8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279, 279-A, 279-E, 281, 298	Routine Technical	No	3/29/2021
2021-088	01-670	Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands	Ch. 18	ATV Municipal/County Grant-in-Aid Program	12 MRS §1893(1)(B)	Routine Technical	No	5/3/2021
2021-170	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 1	Fee Schedule	1 MRS §408-A; 12 MRS §§ 684, 685-B(2), 685-C(3), 685-F	Major Substantive	No	11/1/2021
2021-177	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 2	Definitions (<i>New</i>)	12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)	Routine Technical	No	11/1/2021
2021-183	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 3	Delegation of Authority to Staff (<i>Repeal</i>)	12 MRS §§ 684, 685-B(1-B), 685-C(5)	Routine Technical	No	11/1/2021
2021-184	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 4	Rules of Practice (<i>Repeal and replace</i>)	12 MRS §§ 684, 685-B(1-B), 685-C(5)	Routine Technical	No	11/1/2021
2021-185	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 5	Rules for the Conduct of Public Hearings (<i>Repeal and replace</i>)	12 MRS §§ 684, 685-B(1-B), 685-C(5)	Routine Technical	No	11/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-036	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: ZP 372C (Dallas Plt & Sandy River Plt. — Franklin County) (Arctaris Saddleback Company)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	1/27/2021
2021-096	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: ZP 781 (Osborn — Hancock County) (Christina Ryan and Jacob Ribar)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	4/29/2021
2021-178	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)	Routine Technical	No	11/1/2021
2021-238	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 10	Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions: ZP 785 (Winterville Plt.. — Aroostook County) (Reynold and Iris Raymond)	12 MRS §§ 685-A(7-A), 689	Routine Technical	No	11/17/2021
2021-179	01-672	Department of Agriculture, Conservation and Forestry, Land Use Planning Commission	Ch. 16	Rules Relating to Large Lot Land Divisions	12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)	Routine Technical	No	11/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-259	02-029	Department of Professional and Financial Regulation, Bureau of Financial Institutions	Ch. 141	Assessments - Nondepository Trust Companies, Uninsured Banks, and Merchant Banks (Regulation #41)	9-B MRS §§ 214(2-B),(2-C), 215	Routine Technical	No	1/1/2022
2021-037	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 210	Standards for Pharmacy Benefits Managers (<i>New</i>)	24-A MRS §§ 4348(8), 4349(5)	Routine Technical	No	2/14/2021
2021-258	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 391	Motor Vehicle Insurance Identification Cards	24-A MRS §212; 29-A §1601(10)	Routine Technical	No	12/21/2021
2021-124	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 851	Clear Choice Designs for Individual and Small Group Health Plans (<i>New</i>)	24-A MRS §§ 212, 2793	Routine Technical	No	6/8/2021
2021-128	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 917	Suitability in Annuity Transactions	24-A MRS §§ 212, 2517	Routine Technical	No	1/1/2022
2021-133	02-031	Department of Professional and Financial Regulation, Bureau of Insurance	Ch. 942	Rating Factors and Loss Ration Requirements for Health Plans (<i>New</i>)	24-A MRS §§ 212, 2736-C(2)(D), 2808-B(2)(D), 4319(4)	Routine Technical	No	6/28/2021
2021-123	02-032	Department of Professional and Financial Regulation, Office of Securities	Ch. 510	Broker-Dealers, Investment Advisers, and Others Using the Internet for General Dissemination of Information about Securities Products and Services	32 MRS §§ 16401-16405, 16605	Routine Technical	No	6/13/2021
2021-091	02-032	Department of Professional and Financial Regulation, Office of Securities	Ch. 536	Securities Manuals	32 MRS §§ 16202(2)(D), 16605	Routine Technical	No	5/8/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-248	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) ; PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-249	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	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) ; PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-250	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	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) ; PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-251	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 5	Qualifications for Denturist Licensure	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) ; PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-252	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 6	Qualifications for Dentist Licensure	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); PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-253	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	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); PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-254	02-313	Maine Board of Dental Practice <i>(Affiliated with the Department of Professional and Financial Regulation)</i>	Ch. 17	Requirements for Establishing a Board Approved Dental Hygiene Therapy Program	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); PL 2021 ch. 44, 88, 163	Routine Technical	No	12/15/2021
2021-136	02-318	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Electricians' Examining Board	Ch. 120	Electrical Installation Standards	32 MRS §§ 1153, 1153-A	Routine Technical	No	7/2/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-194	02-318	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Electricians' Examining Board	Ch. 160	Power Generation Systems as Electrical Installations	32 MRS §§ 1101, 1153, 1153-A	Routine Technical	No	10/4/2021
2021-176	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	22 MRS §1812-G(3); 32 MRS §§ 2102, 2104 and 2153-A(1)	Routine Technical	No	9/6/2021
2021-212	02-395	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Plumbers' Examining Board	Ch. 4	Installation Standards (Incorporated by Reference: 2021 Uniform Plumbing Code:(IAPMO/ANSI UPC 1-2021))	32 MRS §§ 3403-A, 3403-B(1), 3302	Routine Technical	No	1/1/2022
2021-046	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 1	Definitions	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

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2021-047	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 4-A	Licensure Requirement for Certified Professional Midwives (<i>New</i>)	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021
2021-048	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 4-B	Licensure Requirements for Certified Midwives (<i>New</i>)	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021
2021-049	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 5	Standards for Continuing Professional Education for Acupuncturists, Naturopathic Doctors, Certified Professional Midwives and Midwives	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-050	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 6-A	Standards Relating to Certified Professional Midwives Authority to Obtain and Administer Drugs, Medical Devices and Scope of Practice <i>(New)</i>	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021
2021-051	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 6-B	Standards Relating to Certified Midwives' Prescriptive Authority and Scope of Practice <i>(New)</i>	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021
2021-175	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 6-C	Standards for Vaginal Birth After Cesarean Section (VBAC) <i>(New)</i>	32 MRS §§ 12503, 12536(2)	Routine Technical	No	9/4/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-052	02-502	Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers	Ch. 7	Grounds for Discipline	32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4), (5), 12537(2), (3),(4),(5), 12538, 12543(1)	Routine Technical	No	3/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

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2021-029	03-201	Department of Corrections	Ch. 1	Detention and Correctional Standards for Counties and Municipalities	34-A MRS §§ 1208, 1208-B	Routine Technical	No	1/20/2021
2021-198	03-201	Department of Corrections	Ch. 2	Change of Use, Downsizing, or Closure of Correctional Facilities (<i>Repeal</i>)	34-A MRS §1403	Routine Technical	No	10/6/2021
2021-167	03-201	Department of Corrections	Ch. 5	Advisory Rulings (<i>New</i>)	5 MRS §9001; 34-A MRS §1403	Routine Technical	No	8/24/2021
2021-215	03-201	Department of Corrections	Ch. 10	Policy 27.2: Supervised Community Confinement	PL 2021 ch. 376	Routine Technical	Yes	10/18/2021
2021-002	03-201	Department of Corrections	Ch. 15	Batterer Intervention Program Certification	19-A MRS §4014	Routine Technical	No	1/15/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

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2021-186	05-071	Department of Education (<i>jointly with</i> 10-144, Department of Health and Human Services, Maine Center for Disease Control and Prevention)	Ch. 126 (DHHS: ch. 261)	Immunization Requirements for School Children	20-A MRS §§ 6352-6358; 22 MRS §806	Routine Technical	No	9/25/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-225	06-096	Department of Environmental Protection	Ch. 4	Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders <i>(New)</i>	5 MRS §8051; 38 MRS §§ 341-D, 341-H	Routine Technical	No	11/3/2021
2021-033	06-096	Department of Environmental Protection	Ch. 100	Definitions Regulation	38 MRS §585-A	Routine Technical	No	2/9/2021
2021-262	06-096	Department of Environmental Protection	Ch. 147	Hydrofluorocarbon Prohibitions <i>(New)</i>	PL 2021 ch. 192	Routine Technical	No	1/4/2022
2021-143	06-096	Department of Environmental Protection	Ch. 167	Tracking and Reporting Gross and Net Annual Greenhouse Gas Emissions <i>(New)</i>	38 MRS §§ 876-A(4)	Routine Technical	No	7/7/2021
2021-237	06-096	Department of Environmental Protection	Ch. 168	Statewide Greenhouse Gas Emissions Regulation <i>(New)</i>	38 MRS §576-A	Routine Technical	No	11/28/2021
2021-034	06-096	Department of Environmental Protection	Ch. 400	Maine Solid Waste Management Rules	38 MRS §§ 341-D(1-B), 1304(1,1-B, 13 & 13-A), 1310-N(9), 1301 <i>et seq.</i>	Routine Technical	No	2/9/2021
2021-214	06-096	Department of Environmental Protection	Ch. 424	Solid Waste Management Rules: Lead Management Regulations	38 MRS §1295	Routine Technical	No	10/19/2021
2021-202 <i>thru 210</i>	06-096	Department of Environmental Protection	Ch. 850 <i>thru 858</i>	Hazardous Waste Management Rules	38 MRS §§ 341-D(1-C), 341-H, 1304(1), 1319-O	Routine Technical	No	10/6/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-216	09-137	Department of Inland Fisheries and Wildlife	Ch. 1	Open Water and Fishing Regulations	12 MRS §§ 10104, 12452, 12461	Routine Technical	No	1/1/2022
2021-217	09-137	Department of Inland Fisheries and Wildlife	Ch. 1-A	State Heritage Fish Waters	12 MRS §§ 10104, 12452, 12461	Routine Technical	No	1/1/2022
2021-040	09-137	Department of Inland Fisheries and Wildlife	Ch. 7	Rules for Importation, Possession, Propagation, Rehabilitation and Exhibition of Wildlife	12 MRS §§ 10104, 12152	Routine Technical	No	2/23/2021
2021-108	09-137	Department of Inland Fisheries and Wildlife	Ch. 13	Watercraft Rules: 13.07, Motor Size Restrictions on Certain Inland Waters	12 MRS §13051	Routine Technical	No	5/26/2021
2021-071	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.11, Migratory Game Bird Hunting	12 MRS §§ 10104, 11855	Routine Technical	No	4/13/2021
2021-109	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.08, Moose Hunting (Permit Allocations)	12 MRS §§ 11151, 11552	Routine Technical	No	5/26/2021
2021-110	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.08, Moose Hunting (Adaptive Moose Hunt)	12 MRS §§ 11151, 11552	Routine Technical	No	5/26/2021
2021-145	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.07, Any Deer Permit Allocations	12 MRS §§ 11152, 11401	Routine Technical	No	7/18/2021
2021-157	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.07, Expanded Archery Areas	12 MRS §§ 10104, 11402	Routine Technical	No	8/10/2021
2021-158	09-137	Department of Inland Fisheries and Wildlife	Ch. 16	Hunting: 16.13, Protocol for Big Game Registration Station and Furbearer Registration Agents	12 MRS §10104	Routine Technical	No	8/10/2021
2021-159	09-137	Department of Inland Fisheries and Wildlife	Ch. 17	Trapping	12 MRS §§ 10104, 12251	Routine Technical	No	8/10/2021
2021-072	09-137	Department of Inland Fisheries and Wildlife	Ch. 24	Licensed Guides (Recreational Classification)	12 MRS §§ 10104, 12851	Routine Technical	No	4/13/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-130	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 17 , Community Support Services	22 MRS §§ 42(1), 3173; PL 2017, ch. 407	Routine Technical	No	7/1/2021
2021-090	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II & III Section 19 , Home and Community Benefits for the Elderly and Adults with Disabilities	22 M.R.S. §§ 42, 42(8), 3173; P.L. 2019, ch. 616 (emergency, effective Mar. 20, 2020); Resolves 2019, ch. 104	Routine Technical	No	5/2/2021
2021-069	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 21 , Allowances for Home and Community Benefits for Adults with Intellectual Disabilities or Autism Spectrum Disorder	22 MRS §§ 42, 42(8); 5 MRS §8054; PL 2019 ch. 616 part A §A-7	Major Substantive	Yes	4/7/2021
2021-070	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 29 , Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder	22 MRS §§ 42, 42(8), 3173; 5 MRS §8054; PL 2019 ch. 616 part A §A-7	Major Substantive	Yes	4/7/2021
2021-131	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 92 , Behavioral Health Home Services	22 MRS §§ 42(1), 3173; PL 2017, ch. 407	Routine Technical	No	7/1/2021
2021-129	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 97 , Private Non-Medical Institution Services	22 MRS §§ 42, 3173	Routine Technical	No	7/1/2021
2021-223	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. II Section 97 , Private Non-Medical Institution Services	22 MRS §§ 42, 3173; 22 MRS §8110; PL 115-123	Routine Technical	No	11/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-224	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. III Section 97 , Private Non-Medical Institution Services	22 MRS §§ 42, 3173; 5 MRS §§ 8054, 8073...	Major Substantive	Yes	11/1/2021
2021-240	10-144	Department of Health and Human Services, Office of MaineCare Services, Division of Policy	Ch. 101	MaineCare Benefits Manual: Ch. VII Section 5 , Estate Recovery	22 MRS §§ 42, 3173; 5 MRS §8054	Routine Technical	Yes	11/24/2021
2021-119	10-144	Department of Health and Human Services, Division of Licensing and Certification	Ch. 113	Regulations Governing the Licensing and Functioning of Assisted Housing Programs, Infection Prevention and Control	22 MRS § 7853	Major Substantive	No	6/4/2021
2021-148	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 124	Emergency Medical Services Personnel Reporting Rule	22 MRS §§ 820(1)(C)	Major Substantive	No	8/20/2021
2021-257	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 234	Lead Testing in School Drinking Water Rule (<i>New</i>)	22 MRS §2604-B	Major Substantive	No	1/12/2022
2021-035	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 258	Rules for the Control of Notifiable Diseases and Conditions	5 MRS §8052; 22 MRS §§ 802(3), 821, 835	Routine Technical	No	2/17/2021
2021-187	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (<i>jointly with</i> 05-071, Department of Education)	Ch. 261 (DOE: ch. 126)	Immunization Requirements for School Children	20-A MRS §§ 6352-6358; 22 MRS §806	Routine Technical	No	9/25/2021
2021-154	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 262	Post-Secondary School Immunization Rule	20-A MRS § 6359(6)	Routine Technical	No	8/11/2021
2021-068	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 264	Immunization Requirements for Healthcare Workers	22 MRS §§ 802(1)(D), 802 (3), PL 2019 ch. 154 §11	Routine Technical	No	4/14/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-166	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 264	Immunization Requirements for Healthcare Workers	22 MRS §§ 801(1)(D), 802(3)	Routine Technical	Yes	8/12/2021
2021-226	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 264	Immunization Requirements for Healthcare Workers	22 MRS §802	Routine Technical	No	11/10/2021
2021-063	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 283	Newborn Bloodspot Screening Rule	20-A MRS §210	Major Substantive & Routine Technical	Yes	3/11/2021
2021-118	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC)	Ch. 283	Newborn Bloodspot Screening Rule	20-A MRS §210	Routine Technical	No	6/1/2021
2021-221	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 297	Dental Care Access Credit Program Rule	36 MRS §5219-DD; 22 MRS §42	Routine Technical	No	11/3/2021
2021-201	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention	Ch. 298	Primary Care Tax Credit Certification Rule	22 MRS §42; 22-A MRS §205; 36 MRS §5215-LL	Routine Technical	No	10/12/2021
2021-032	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #217E: Section 999-3 (Charts), Increases Pursuant to PL 116-260	22 MRS §§ 42(1) and (8), 3104(1); 5 MRS §8054; PL 116-260	Routine Technical	Yes	2/1/2021
2021-042	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #219E (Temporary Student Policy): Section 444-7, Households with Special Circumstances, Students	22 MRS §§ 42(1) and (8), 3104(1); 5 MRS §8054; PL 116-260	Routine Technical	Yes	2/18/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-082	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #217A: Section 999-3 (Charts), Increases Pursuant to PL 116-260 and PL 117-2	22 MRS §§ 42(1) and (8), 3104(1); 5 MRS §8054; PL 116-260, 117-2	Routine Technical	No	5/1/2021
2021-093	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #219E (Temporary Student Policy): Section 444-7, Households with Special Circumstances, Students	22 MRS §§ 42(1) and (8), 3104(1); PL 116-260	Routine Technical	No	5/19/2021
2021-147	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #218, Updates to Card Replacement and Benefit Use and Expungement; Section FS 777-7 Administrative Procedures, Electronic Benefit Transfer (EBT)	22 MRS §§ 42(1) and (8)	Routine Technical	No	8/2/2021
2021-155	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #216, Interview Waivers; Sections FS 222-4, 444-5, 666-9 and 999-1	22 MRS §§ 42(1) and (8)	Routine Technical	No	8/15/2021
2021-156	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #220A, ABA WD FFY 2022; Section FS 999-2, Geographic Exemptions from ABA WD Work Requirements	22 MRS §§ 42(1) and 7 CFR § 273.24(f)	Routine Technical	No	10/1/2021
2021-199	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Food Supplement Program, FS Rule #222E: Section 999-3, Charts	22 MRS §§ 42(1), 3104; 5 MRS §8054; 7 CFR §273-9(d)	Routine Technical	Yes	10/1/2021
2021-256	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 301	Supplemental Nutrition Assistance Program (SNAP) Rules (<i>formerly</i> Food Supplement Program), 2021 Omnibus Rule Change (<i>many sections</i>)	22 MRS §42(1) and (8), 3104(13),(17)	Routine Technical	No	12/30/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-191	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	Maine Public Assistance Manual (TANF), Rule #117A : FFY 2022 COLA, Application Process Updates, and Post TANF Services Budgeting Updates	22 MRS §§ 42(1) and (8), 3769-A, 3769-C	Routine Technical	No	10/1/2021
2021-092	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 331	MaineCare Eligibility Manual, Rule #MC295A: Part 9, (Special) Limited Benefit Groups; Part 18, Presumptive Eligibility Determined by Hospitals	22 MRS §§ 42(1), and 3173-G; 42 U.S.C. §1396r-a; and 22 MRS §42(8)	Routine Technical	Yes	5/10/2021
2021-213	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. 2, Definitions; ch. 5, Limitation of Debt; Bar Against Collection (19-A MRS §2302); SSI	22 MRS §42(1); 19-A MRS §2103(3-A); <i>Social Security Act</i> , Section 454(6)(B)(ii)	Routine Technical	No	10/17/2021
2021-114	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 607	ASPIRE-TANF Program Rules: ASPIRE Rule #28A (TANF Earnings Disregard Extensions)	22 MRS §§ 42(1), and 3762(3)(A) and (18)	Routine Technical	No	6/1/2021
2021-086	10-144	Department of Health and Human Services, Office for Family Independence	Ch. 609	Food Supplement – Employment and Training (FSET) Program Rules (FSET Rule #5: Bachelors Programs Approved)	22 M.R.S. § 42(1) and (8)	Routine Technical	No	5/1/2021
2021-247	10-144	Department of Health and Human Services, Maine Center for Disease Control and Prevention - Data, Research, and Vital Statistics	Ch. 730	Interagency Reporting of Cancer Registry and Vital Statistics Data (New; jointly with 90-590 ch. 730, <i>Maine Health Data Organization</i>), filing 2021-246	PL 2021 ch. 423; 22 MRS §§ 1406-A, 2706 sub-§2-A, 8715-A	Routine Technical	No	12/14/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-001	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	1/6/2021
2021-188	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 32	Child Care Facility Licensing Rule - Child Care Centers, Small Child Care Facilities, Other Programs	22 M.R.S. §§ 7702-B, 7703, 7704, 7707, 7802, 8301, 8301-A, 8302-A, 8303-A	Routine Technical	No	9/27/2021
2021-189	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 36	Rules for the Licensing of Nursery Schools (<i>Repeal</i>)	22 M.R.S. §§ 7702-B, 7703, 7704, 7707, 7802, 8301, 8301-A, 8302-A, 8303-A	Routine Technical	No	9/27/2021
2021-112	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 33	Family Child Care Provider Licensing Rule	5 MRS §§ 8054, 8073; 22 MRS §§ 7702-B11), 7703(6), 7704, 7707(3), 7802(7), 8301(8), 8302-A(2), 8303- A(l)	Major Substantive	Yes	5/27/2021
2021-243, 244	10-148	Department of Health and Human Services, Office of Child and Family Services	Ch. 35 (replaces ch. 36)	<i>Children's Residential Care Facilities Licensing Rule (Repeal and replace)</i>	22 MRS §§ 42, 7801, 7802, 8102; 22-A MRS §205(2); 34-B MRS §1203-A	Routine Technical	No	12/12/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-041	10-149	Department of Health and Human Services, Office of Aging and Disability Services	Ch. 5 §16	Adult Protective Services: Administration	22 MRS §§ 42, 3493	Routine Technical	No	2/27/2021
2021-121	14-197	Department of Health and Human Services, Office of Aging and Disability Services	Ch. 6	Crisis Prevention and Intervention Services (<i>New</i>)	22 MRS §§ 42(1), 3089(3); 34-B MRS §5206(8)	Major Substantive	No	7/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-134	12-152	Department of Labor, Bureau of Rehabilitation Services	Ch. 1	Division of Vocational Rehabilitation Services Rules	26 MRS §1412-E	Routine Technical	No	6/29/2021
2021-135	12-152	Department of Labor, Bureau of Rehabilitation Services	Ch. 12	Rules for the Communication Equipment Fund Program for People with Disabilities	26 MRS §1419-A	Routine Technical	No	6/28/2021
2021-232	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	11/20/2021
2021-233	12-179	Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health	Ch. 5	Occupational Safety and Health Standards for Public Safety Diving	26 MRS §§ 565, 2107	Routine Technical	No	11/20/2021
2021-234	12-179	Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health	Ch. 6	Recording Occupational Injuries and Illnesses in the Public Sector	26 MRS §565	Routine Technical	No	11/20/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-055	13-188	Department of Marine Resources	Ch. 2	Aquaculture Lease Regulations: 2.95, Water Quality Classifications and Shellfish Aquaculture (Maximum Seed Sizes in Prohibited Areas)	12 MRS §6171-A	Routine Technical	No	3/13/2021
2021-160	13-188	Department of Marine Resources	Ch.5	Confidentiality of Fisheries Statistics	12 MRS §6173	Routine Technical	No	8/10/2021
2021-115	13-188	Department of Marine Resources	Ch. 8	Landings Program	12 MRS §6171(3)(A)	Routine Technical	Yes	6/1/2021
2021-161	13-188	Department of Marine Resources	Ch. 8	Landings Program	12 MRS §6171	Routine Technical	No	8/10/2021
2021-218	13-188	Department of Marine Resources	Ch. 8	Landings Program	12 MRS §6171	Routine Technical	No	10/31/2021
2021-026	13-188	Department of Marine Resources	Ch. 11	Scallops: 11.08, Targeted Closures: (7) Roque Island Harbor and Kennebec River in Englishman's Bay Rotational Area; (8) Harrington and Pleasant Rivers in Addison Rotational Area; (9) Fox Island Thorofare in Isle au Haut Rotational Area; (10) Casco Passage in Swan's Island Rotational Area	12 MRS §6171(3)	Routine Technical	Yes	1/17/2021
2021-043	13-188	Department of Marine Resources	Ch. 11	Scallops: 11.08, Targeted Closures: (7) Upper Englishman Bay RA; (8) Addison RA; (11) Cobscook, Whiting & Dennys Bays; (12) Upper Frenchmen Bay; (13) Damariscotta River LAA; (14) West Casco Bay	12 MRS §6171(3)(A)	Routine Technical	Yes	2/14/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-054	13-188	Department of Marine Resources	Ch. 11	Scallops: Targeted Closures: (9) Isle au Haut RA; (10) Expanded Swan's Island; (11) Cobscook, Whiting & Dennys Bays & St. Croix River; (12) Expanded Upper Frenchmen Bay	12 MRS §6171(3)(A)	Routine Technical	Yes	3/7/2021
2021-219	13-188	Department of Marine Resources	Ch. 11	Scallops::2021-22 Season	12 MRS §§ 6171, 6722	Routine Technical	No	10/31/2021
2021-044	13-188	Department of Marine Resources	Ch. 24	Importation of Live Marine Organisms	12 MRS §6171(3)(A)	Routine Technical	Yes	2/14/2021
2021-162	13-188	Department of Marine Resources	Ch. 24	Importation of Live Marine Organisms	12 MRS §6071	Routine Technical	No	8/10/2021
2021-163	13-188	Department of Marine Resources	Ch. 26	Sea Urchins (2021-2022 Season)	12 MRS §6749	Routine Technical	No	8/10/2021
2021-056	13-188	Department of Marine Resources	Ch. 30	River Herring: 30.03, Taking of River Herring from Walker's Brook	12 MRS §6171	Routine Technical	No	3/13/2021
2021-220	13-188	Department of Marine Resources	Ch. 30	River Herring: 30.03, Taking of River Herring from Walker's Brook	12 MRS §6171	Routine Technical	No	10/31/2021
2021-057	13-188	Department of Marine Resources	Ch. 32	Eels and Elvers: 32.03, Elver Quotas for the 2021 Season)	12 MRS §6171, 6173	Routine Technical	No	3/13/2021
2021-058	13-188	Department of Marine Resources	Ch. 34	Groundfish Regulations: 34.07, Atlantic Halibut (<i>Hippoglossus hippoglossus</i>)	12 MRS §6171	Routine Technical	No	3/13/2021
2021-116	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring	12 MRS §6171(3)(C)	Routine Technical	Yes	6/1/2021
2021-200	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring (2021 Season 2 Closed)	12 MRS §6171	Routine Technical	Yes	10/1/2021
2021-228	13-188	Department of Marine Resources	Ch. 36	Atlantic Herring 2021-Season 2 Open)	12 MRS §6171	Routine Technical	Yes	11/6/2021
2021-087	13-188	Department of Marine Resources	Ch. 41	Menhaden: 2021 Commercial Harvest Rules	12 MRS §6171	Routine Technical	No	4/27/2021
2021-117	13-188	Department of Marine Resources	Ch. 42	Statewide Striped Bass Harvest Methods	12 MRS §6171(3)(C)	Routine Technical	Yes	6/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-164	13-188	Department of Marine Resources	Ch. 42	Striped Bass	12 MRS §6171	Routine Technical	No	8/10/2021
2021-165	13-188	Department of Marine Resources	Ch. 43	Bluefish	12 MRS §6171	Routine Technical	No	8/10/2021
2021-059	13-188	Department of Marine Resources	Ch. 94	Sanitary Control of Molluscan Shellfish	12 MRS §§ 6171, 6856	Routine Technical	No	3/13/2021
2021-060	13-188	Department of Marine Resources	Ch. 115	<i>Vibrio parahaemolyticus</i> Control Plan	12 MRS §6171-A	Routine Technical	No	3/13/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-255	15-214	Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency	Ch. 2	Rules for Establishing Fees for Reporting under the Superfund Amendments and Reauthorization Act of 1986 and Title 37-B Section 801, M.R.S.A., Chapter 13	37-B MRS §801	Routine Technical	No	12/19/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-004 to 025	16-163	Department of Public Safety, Maine Emergency Medical Services	Ch. 1 to 18	All rules.	32 MRS §§ 84(1)(D), 88(2)(B)	Routine Technical	No	1/10/2021
2021-174	16-163	Department of Public Safety, Maine Emergency Medical Services	Ch. 20	COVID-19 Immunization Requirements	32 MRS §84(1)(A)	Routine Technical	Yes	8/25/2021
2021-074	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 5	Portable Fire Extinguishers	25 MRS §2452	Routine Technical	No	4/17/2021
2021-075	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 7	Dry Cleaning Plants (<i>Repeal</i>)	25 MRS §2452	Routine Technical	No	4/17/2021
2021-076	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 8	Spray Applications (<i>Repeal</i>)	25 MRS §2452	Routine Technical	No	4/17/2021
2021-077	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 9	Dip Tanks (<i>Repeal</i>)	25 MRS §2452	Routine Technical	No	4/17/2021
2021-078	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 11	Bulk Oxygen and Hydrogen Systems (<i>Repeal</i>)	25 MRS §2452	Routine Technical	No	4/17/2021
2021-079	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 13	Welding, Cutting and Allied Processes and Acetylene Cylinder Charging Plants (<i>Repeal</i>)	25 MRS §2452	Routine Technical	No	4/17/2021
2021-030	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 20	Fire Safety in Buildings and Structures	8 MRS §236; 25 MRS §2452	Routine Technical	Yes	1/25/2021
2021-132	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 36	Consumer Fireworks Sale License	8 MRS §236; 25 MRS §2452	Routine Technical	Yes	6/21/2021
2021-182	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 36	Consumer Fireworks Sale License	8 MRS §236; 25 MRS §2452	Routine Technical	No	9/20/2021
2021-031	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 50	Death Benefits for Firefighters Who Die in the Line of Duty	8 MRS §236; 25 MRS §2452	Routine Technical	Yes	1/25/2021
2021-080	16-219	Department of Public Safety, Office of State Fire Marshal	Ch. 50	Death Benefits for Firefighters Who Die in the Line of Duty	25 MRS §1612	Routine Technical	No	4/17/2021
2021-236	16-633	Department of Public Safety, Gambling Control Board/Unit	Ch. 5	Internal Controls (<i>includes</i> Appendix A, Minimum Internal Controls)	8 MRS §§ 1003	Routine Technical	No	11/28/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-122	16-633	Department of Public Safety, Gambling Control Board/Unit	Ch. 20	Slot Machine and Electronic Table Game Standards	8 MRS §§ 1003(1)(B),(1)(L),(2)(U); 8 MRS §§ 1071-1072	Routine Technical	No	6/9/2021
2021-180	16-633	Department of Public Safety, Gambling Control Board/Unit	Ch. 28	Advance Deposit Wagering	8 MRS §§ 1003(1)(B),(1)(L),(2)(U); 8 MRS §§ 1071-1072	Routine Technical	No	9/14/2021
2021-120	16-633	Department of Public Safety, Gambling Control Board/Unit	Ch. 29	Promotional Credits and Other Player Incentives	8 MRS §1001(26), 1003(1)(B),(2)(I), 3(E),3(J)	Routine Technical	No	6/9/2021
2021-097 thru 107	16-633	Department of Public Safety, Gambling Control Board/Unit	Ch. 33 to 43	Ch. 33, Introduction; Ch. 34, Definitions; Ch. 35, License Application; Ch. 36, License Fee and Renewal; Ch. 37, Fantasy Contest Monitoring; Ch. 38, Fantasy Contest Account Activity; Ch. 39, Registration of Fantasy Contestants; Ch. 40, Fantasy Contestant Funds and Required Reserves; Ch. 41, Licensee Records, Annual Reporting and Audits; Ch. 42, Collection of Payments; Ch. 43, Complaints and Disciplinary Actions	8 MRS §§ 1102(D), 1106(I)	Major Substantive	No	6/13/2021
2021-094	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 1	Maine Uniform Building and Energy Code - Administrative Procedures	10 MRS §9722	Routine Technical	Yes	5/10/2021
2021-168	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 1	Maine Uniform Building and Energy Code - Administrative Procedures	10 MRS §9722	Routine Technical	No	8/26/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-153	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 3	Maine Uniform Building and Energy Code - Commercial Building Code of Maine	10 MRS §9722	Routine Technical	Yes	8/2/2021
2021-227	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 3	Maine Uniform Building and Energy Code - Commercial Building Code of Maine	10 MRS §9722	Routine Technical	No	11/14/2021
2021-095	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 6	Maine Uniform Building and Energy Code - Energy Code	10 MRS §9722	Routine Technical	Yes	5/10/2021
2021-169	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 6	Maine Uniform Building and Energy Code - Energy Code	10 MRS §9722	Routine Technical	No	8/26/2021
2021-181	16-642	Department of Public Safety, Bureau of Building Codes and Standards	Ch. 7	Maine Uniform Building and Energy Code - Mechanical Code <i>(New)</i>	10 MRS §9722	Routine Technical	No	9/20/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-067	17-229	Department of Transportation	Ch. 210	Utility Accommodation Rules	23 MRS §52; 35-A §2503(16); 23 CFR §645.211	Routine Technical	No	4/5/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-140	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 102	Electronic Funds Transfer (EFT)	36 MRS §§ 112, 193	Routine Technical	No	7/4/2021
2021-141	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 103	Recordkeeping and Retention	36 MRS §§ 112, 135	Routine Technical	No	7/4/2021
2021-142	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 104	Filing of Maine Tax Returns	36 MRS §§ 112, 193, 5220(7)	Routine Technical	No	7/4/2021
2021-127	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 201	Rules of Procedure Used to Develop State Valuation	36 MRS §§ 112, 201, 208, 305	Routine Technical	No	6/17/2021
2021-081	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 202	Tree Growth Tax Law Valuations - 2021	36 MRS §576	Routine Technical	No	4/20/2021
2021-073	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 205	Certification of Assessors	36 MRS §§ 310-314, 318	Routine Technical	No	4/13/2021
2021-061	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 301	Sales for Resale and Sales of Packaging Materials	36 MRS §112	Routine Technical	No	3/15/2021
2021-062	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 302	Sales to Governmental Agencies and Exempt Organizations	36 MRS §112	Routine Technical	No	3/15/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-193	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 803	Income Tax Withholding Reports and Payments	36 MRS §112	Routine Technical	No	10/3/2021
2021-027	18-125	Department of Administrative and Financial Services, Bureau of Revenue Services (Maine Revenue Services - MRS)	Ch. 812	Credit for Educational Opportunity	36 MRS §§ 112, 5217-D	Routine Technical	No	1/28/2021
2021-125	18-553	Department of Administrative and Financial Services, Bureau of Alcoholic Beverage and Lottery Operations (BABLO) / Maine State Liquor and Lottery Commission	Ch. 20	Powerball Rules	8 MRS §§ 372 sub-§2, 374	Routine Technical	No	8/23/2021
2021-126	18-553	Department of Administrative and Financial Services, Bureau of Alcoholic Beverage and Lottery Operations (BABLO) / Maine State Liquor and Lottery Commission	Ch. 50	Lucky for Life Rules	8 MRS §§ 372 sub-§2, 374	Routine Technical	No	7/18/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-195	19-100	Department of Economic and Community Development	Ch. 100	Pine Tree Development Zone Program	30-A MRS §5250-M	Routine Technical	No	10/4/2021
2021-196	19-100	Department of Economic and Community Development	Ch. 400	Employment Tax Increment Financing	36 MRS §6759	Routine Technical	No	10/4/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-190	65-407	Maine Public Utilities Commission	Ch. 62	Service Standards for Water Utilities	35-A MRS §111	Routine Technical	Yes	9/21/2021
2021-152	65-407	Maine Public Utilities Commission	Ch. 294	Lifeline	35-A MRS §§ 111, 7101, 7104	Routine Technical	No	8/2/2021
2021-235	65-407	Maine Public Utilities Commission	Ch. 311	Portfolio Requirement	35-A MRS §§ 104, 111, 1301,3203(9), 3210, 3210-B; PL 20219 ch. 199	Routine Technical	No	11/21/2021
2021-245	65-407	Maine Public Utilities Commission	Ch. 313	Customer Net Energy Billing	35-A MRS §§ 104, 111, 1301, 3209-A, 3209-B	Routine Technical	No	12/14/2021
2021-066	65-407	Maine Public Utilities Commission	Ch. 420	Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators	35-A MRS §§ 111, 4508, 4515, 4516-A, 4705-A	Routine Technical	No	3/31/2021
2021-085	65-407	Maine Public Utilities Commission	Ch. 880	Attachments to Joint-Use Utility Poles; Determination and Allocation of Costs; Procedure	35-A MRS §§ 111, 301, 711, 2301, 2501, 2524, 7903, 8302	Routine Technical	No	4/26/2021
2021-144	65-407	Maine Public Utilities Commission	Ch. 895	Underground Facility Damage Prevention Requirements	23 MRS §3360-A; 35 MRS §§ 104, 111	Major Substantive	No	8/5/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-229	90-590	Maine Health Data Organization	Ch. 241	Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets	22 MRS ch. 1683 §§ 8704 sub-§4, 8708	Routine Technical	No	11/15/2021
2021-230	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	11/15/2021
2021-242	90-590	Maine Health Data Organization	Ch. 247	Uniform Reporting System for Non-Claims Based Primary Care Payments <i>(New)</i>	22 MRS §§ 8703(1), 8704(1)&(4)	Routine Technical	No	12/12/2021
2021-231	90-590	Maine Health Data Organization	Ch. 570	Uniform Reporting System for Prescription Drug Price Data Sets	22 MRS §§ 8703(1), 8704(1), 8705-A, 8705-A(3), 8731, 8732, 8733, 8734, 8735, 8737	Major Substantive	No	12/10/2021
2021-246	90-590	Maine Health Data Organization	Ch. 730	Interagency Reporting of Cancer Registry and Vital Statistics Data <i>(New; jointly with the Department of Health and Human Services)</i>	PL 2021 ch. 423; 22 MRS §§ 1406-A, 2706 sub-§2-A, 8715-A	Routine Technical	No	12/14/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-113	94-411	Maine Public Employees Retirement System	Ch. 104	Limitations on Earnable Compensation for Purposes of Calculating Average Final Compensation of State Employees and Teacher Members	5 MRS §17103(4)	Routine Technical	No	5/30/2021
2021-084	94-411	Maine Public Employees Retirement System	Ch. 414	Required Minimum Distributions	5 MRS §17103(4)	Routine Technical	No	4/19/2021
2021-241	94-411	Maine Public Employees Retirement System	Ch. 511	Standards for Actively Seeking Work	5 MRS §17103(4)	Routine Technical	No	12/8/2021
2021-197	94-411	Maine Public Employees Retirement System	Ch. 803	Participating Local District Consolidated Retirement Plan	5 MRS §17103(4), 18200 <i>et seq.</i> , 18252-C(5), 18801 <i>et seq.</i>	Routine Technical	No	10/4/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-211	94-457	Finance Authority of Maine	Ch. 611	Maine Education Savings Program	10 MRS §969-A; 20-A MRS §11485	Routine Technical	No	10/10/2021

Annual List of Rule-making Activity
 Rules Adopted 1/1/2021 to 12/31/2021
 Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-149	94-649	Maine Commission on Indigent Legal Services	Ch. 301	Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel	4 MRS §§ 1804(2)(F), (3)(B), (3)(F), (4)(D); PL 2021 ch. 398 §A-2	Major Substantive	Yes	7/21/2021
2021-150	94-649	Maine Commission on Indigent Legal Services	Ch. 302	Procedures Regarding Funds for Experts and Investigators	4 MRS §§ 1804(3)(L), (4)(D)	Routine Technical	No	8/1/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-146	99-346	Maine State Housing Authority	Ch. 24	Home Energy Assistance Program Rule (<i>Repeal and replace</i>)	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	9/19/2021

Annual List of Rule-making Activity
Rules Adopted 1/1/2021 to 12/31/2021
Prepared by the Secretary of State

Log #	Umbrella / unit	Agency name	Chapter number	Rule title	Statutory authority	Type of rule	Emergency	Effective date
2021-053	99-639	ConnectMaine Authority	Ch. 101	ConnectMaine Authority	35-A MRS ch. 93	Routine Technical	No	3/8/2021
2021-261	99-639	ConnectMaine Authority	Ch. 101	ConnectMaine Authority	35-A MRS ch. 93	Routine Technical	No	1/2/2022

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 2017 PL ch. 6; 7 MRS ch. 103 Article 1-A; 10 MRS §1023-N
Chapter number/title: **Ch. 31**, Rules for the Operation of Potato Marketing Improvement Fund
Filing number: **2021-172**
Effective date: 8/29/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule amendment implements revisions made by 2017 Public Law Chapter 6, which amended 7 MRS Chapter 103, Article 1-A, §974-A, sub-§2-A. The law now states that the interest rate for state loans is the federal prime rate on the date of loan commitment but may not be greater than 5%. Loans current on the effective date of this subsection may be refinanced at the borrower's request to an interest rate of the federal prime rate but not greater than 5%. A fee for administrative costs, which must be at a rate set by rule by the board but may not exceed 1% of the loan, must be charged on a loan made for a project the total cost of which exceeds \$50,000. This fee must be deposited in the fund.

Basis statement:

The Department testified in favor of supporting LD 204, *An Act To Amend the Law Regarding the Interest Rate for State Loans under the Potato Marketing Improvement Fund*. A fixed 5% loan rate for this program was unattractive to borrowers who want to avoid interest payments that do not reflect current market conditions. Earlier this year the rule change was signed into law by the governor which will make the interest rates more competitive by changing the fixed 5% to follow the federal prime interest rate on the date of the loan commitment but may not be greater than 5%. Undertaking this routine technical rule making on ch. 31 is necessary to make ensure our rules are consistent with this law.

Fiscal impact of rule:

No fiscal impact, other than funds being made more attractive to qualified borrowers and lowers the interest rate of current borrowers.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS ch. 401 §§ 2101-2105; 7 MRS ch. 1 §12; 7 MRS §411 §2352
Chapter number/title: **Ch. 252**, Rules Governing Seed Certification in the State of Maine
Filing number: **2021-173**
Effective date: 8/29/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The changes include eliminating the mandatory post-harvest testing requirement for out of state exports of seed potatoes. An additional change will also be limiting growers challenging the post-harvest testing result re-test with an upper limit of 9%. These changes are adopted to better maintain seed markets and stabilize supply. These rule changes have been proposed and developed with seed potato industry support. These rules will only impact the potato industry and their customers.

Basis statement:

This rule change for ch. 252, 7 MRS ch. 401 §§ 2101-2105, 7 MRS ch. 1 §12, and 7 MRS ch. 411 §2352, came about from input from the Executive Seed Council of the Maine Potato board and other industry members to address concerns related to seed supply for out of state exports. This is adopted to better maintain seed markets and stabilize supply. The changes for the Maine Seed Certification Rules are in response to industry requests involving the out of state export of seed potatoes to other, primarily eastern seaboard states for commercial production.

The Department working with industry is proposing to eliminate the mandatory post-harvest testing requirement for out of state exports for commercial production. Seed lots needing recertification and planting in Maine or seed lots destined for export to Canada or internationally will still need to be post-harvest tested to meet phytosanitary and international agreements.

Other changes to the rule include allowing growers who wish to challenge their post-harvest test results the ability to do so with up to 9% total virus. Currently growers can request a re-test up to any limit and industry has requested this change based on statistical data that will limit the potential number of re-tests that the laboratory staff will need to perform. These rule changes have been proposed and developed with seed potato industry support. These rules will only impact the potato industry and their customers.

Fiscal impact of rule:

The Department does not anticipate any significant fiscal impact from the adoption of this amendment.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS §§ 2301-2303
Chapter number/title: **Ch. 268** (*Repeal*), Pine Shoot Beetle Quarantine
Filing number: **2021-038**
Effective date: 2/23/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The repeal of this rule is undertaken because both USDA-APHIS and the Canadian Food Inspection Agency are deregulating pine shoot beetle (PSB) since it has become widespread throughout North America and it has not become a major pest of concern. The state no longer sees a need for the quarantine as well. No other states are going to continue to regulate PSB either.

Basis statement:

This rulemaking removes the state quarantine requirements that restrict the movement of wood that may be infested with the pine shoot beetle (PSB). PSB is now considered established in Maine and is not seen as a continued threat to Maine's forests. The determination to repeal the rule came from the deregulation of pine shoot beetle by USDA-APHIS as well as the Canadian Food Inspection Agency. The concern about this beetle in Maine has subsided.

The Secretary of State published a notice on December 12, 2020 and by that date over 7500 companies and individuals representing horticulture and forestry interests in the state had been notified by email. No public hearing was held.

The comment period ended on January 8, 2021 and no comments were received. Therefore, the Department staff decided to adopt the rule as proposed repealing the entire pine shoot beetle quarantine.

Fiscal impact of rule:

Repeal of the rule will reduce requirements for shippers and the DACF so all impacts will be positive not negative.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS §§ 2301-2303
Chapter number/title: **Ch. 271** (*Repeal*), Gypsy Moth Quarantine
Filing number: **2021-039**
Effective date: 2/23/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The repeal of this rule is undertaken because the quarantine is now a federal quarantine and the state quarantine is obsolete. USDA-APHIS will now enforce their quarantine throughout the entire state.

Basis statement:

Gypsy moth has been a federally regulated pest for over 25 years. Maine has been infested with European gypsy moth since 1906. The state has been monitoring the spread of these pests for over 30 years. The infestation now covers almost the entire state so there is no need to regulate European gypsy moth within Maine's borders.

The Secretary of State published a notice on December 12, 2020 and by that date over 7500 companies and individuals representing horticulture and forestry interests in the state had been notified by email. No public hearing was held.

The comment period ended on January 8, 2021 and no comments were received. Therefore, the Department staff decided to adopt the rule as proposed repealing the entire gypsy moth quarantine.

Fiscal impact of rule:

Repeal of the rule will not reduce or increase any requirements so the fiscal impact is minimal. It will reduce the phytosanitary inspection burden for the DACF.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS §§ 2301-2303
Chapter number/title: **Ch. 275**, Emerald Ash Borer Quarantine
Filing number: **2021-083**
Effective date: 4/21/2021
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. The US Department of Agriculture, Animal & Plant Health Inspection Service deregulated EAB on January 14, 2021 which was one of the reasons for amending Chapter 275 by adding an exterior quarantine to replace the federal quarantine. Additionally, Maine has now seen significant mortality in ash trees in western York County and parts of Cumberland and Oxford Counties, while the Aroostook County infestation appears to be moving slower. Even though EAB is spreading in the southeastern part of the state the Maine Forest Service estimates that over 90% of Maine's ash remains uninfested.

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. Chapter 275 became law on April 10, 2019. Since then, eight new infested towns were added to the EAB infestation map in 2020 and 2021. The new towns included one each in Aroostook and Androscoggin Counties, two in Cumberland County and four in York County.

This amendment adds an exterior quarantine to regulate ash materials that may be imported into the state from other states and Canada. It also extends the quarantine to encompass the newly discovered populations and provides a two-town buffer area around the newly infested town of Grand Isle in northern Aroostook County. Three other Aroostook towns west of the infested area were added to help facilitate the delivery of much needed fuel wood to the residents of Saint John Plantation, Saint Francis and Allagash.

The Secretary of State published a newspaper notice on February 24, 2021 and over 5,657 companies and individuals representing municipal, arboriculture, horticulture, outdoor recreation, firewood and forestry interests in the state were notified electronically. Additional press releases were also picked up by print and broadcast media. A virtual public hearing was held due to COVID-19 restrictions on March 16, 2021 where seven individuals provided comments and two others were just observing.

The comment period ended on April 2, 2021 and fourteen comments were received. A summary of comments and responses to those comments are published in a separate

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

document. All the comments were in support of the quarantine, but there were varied reactions to the three options proposed for expansion of the northern Maine regulated area. Option 1, a three township expansion just south of Hamlin, was preferred by three commenters, Option 2, added three townships west of Fort Kent to the towns in Option 1, was explicitly supported by 4 commenters and Option 3, which added a much larger area to the south and west, was only supported by one commenter. Eight of the commenters expressed no preference for any one of the options. The proposal to remove composted and uncomposted ash chips from the list of regulated materials was not opposed by any commenter and was specifically supported by one commenter. One Tribal commenter urged the Department to develop guidelines for ash chip size or treatment to help assure that EAB is not spread by those chips. One other commenter suggested expansion of the southern Maine regulated area, while ten Tribal commenters expressed great concern for the loss of the brown ash because of its seminal importance to their culture and their basket makers.

The Department's staff reviewed the comments on April 9, 2021 and noted that the comments regarding options 1 – 3 warrant adoption of option 2. The Department therefore decided to adopt Chapter 275 creating a new exterior quarantine, deregulating composted and uncomposted ash chips and expanding the regulated area in Aroostook County by adding six new minor civil divisions (Allagash, Caswell, Connor Township, New Sweden, Saint Francis and Saint John Plantation).

Fiscal impact of rule:

The fiscal impact of the proposed rule on state government should be minimal (~\$5,000). The state will continue to monitor the spread of EAB but will lose some funds provided by USDA-APHIS for that purpose. The funds should be moved to the EAB biocontrol program and MFS should receive greater fiscal assistance for that part of the EAB response. Education and enforcement have already been ongoing and should continue with a minor increase in effort. Impacts on firewood dealers could continue if their unregulated market area is not expanded by options 2 and 3 of the proposal. Otherwise, they will need to purchase a heat treatment system or negotiate a special compliance agreement with MFS. 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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS §2910
Chapter number/title: **Ch. 329**, Rule Governing Maine Milk and Milk Products
Filing number: **2021-003**
Effective date: 1/12/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for the rule amendments to Ch. 329, *Rule Governing Maine Milk and Milk Products*, to be consistent with recommendations of the 2019 United States Public Health Service (USPHS), Food and Drug Administration (FDA) Grade “A” Pasteurized Milk Ordinance (PMO) required by 7 MRSA §2910. Amendments update both procedures and standards governing the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution. In addition, the rule proposes minor increases to the permit fee structure which have not occurred in over 25 years.

Basis statement:

Ch. 329: *Rule Governing Maine Milk and Milk Products* of the Maine Department of Agriculture, Conservation & Forestry, Division of Quality Assurance establishes rules that are consistent with recommendations of the 2019 United States Public Health Service (USPHS), Food and Drug Administration (FDA) Grade “A” Pasteurized Milk Ordinance (PMO). These amendments to the rule are necessary to be in compliance with Federal standards, so that Maine Milk Producers can ship milk in interstate commerce required by 7 MRSA §2910.

The State last amended the rule based on the 2003 edition of the USPHS/FDA Grade “A” PMO by reference in 2006. To be consistent, USFDA urged, the State to amend the current rule to be up to date with the provisions of the 2019 version of the PMO, so to take advantage of the most current developments in milk sanitation and administration. The proposed amendments will take advantage of the latest public health benefits, as well as those economic in nature.

In addition, the rule proposes minor increases to the permit fee structure which have not occurred in over 25 years.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 #02-21**

Filing number: **2021-028**

Effective date: 1/31/2021

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 **February 2021** minimum Class I price is **\$18.79/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 **\$2.33/cwt.** handling fee for a total of **\$23.99/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 **\$15.72/cwt.** and a Class IV price of **\$13.36/cwt.** for **December 2020.** The Class II price for **December 2020** is **\$14.01/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 **\$18.79/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 January 21, 2021 and therefore should be passed on in minimum prices effective January 31, 2021. These prices also include a handling fee of \$2.33/cwt.**

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

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 #03-21**

Filing number: **2021-045**

Effective date: 2/28/2021

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 **March 2021** 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 **\$16.04/cwt.** and a Class IV price of **\$13.75/cwt.** for **January 2021.** The Class II price for **January 2021** is **\$14.18/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$18.45/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 February 18, 2021 and therefore should be passed on in minimum prices effective February 28, 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, 2021 to December 31, 2021
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 #04-21**

Filing number: **2021-064**

Effective date: 4/4/2021

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 **April 2021** minimum Class I price is **\$18.76/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 **\$2.33/cwt.** handling fee for a total of **\$23.96/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 **\$15.75/cwt.** and a Class IV price of **\$13.19/cwt.** for **February 2021**. The Class II price for **February 2021** is **\$14.00/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 **\$18.76/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 March 18, 2021 and therefore should be passed on in minimum prices effective April 4, 2021. These prices also include a handling fee of \$2.33/cwt.**

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

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 #05-21**

Filing number: **2021-089**

Effective date: 5/2/2021

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 **May 2021** minimum Class I price is **\$20.35/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 **\$0.93/cwt.** handling fee for a total of **\$24.15/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.89**.

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 **\$16.15/cwt.** and a Class IV price of **\$14.18/cwt.** for **March 2021**. The Class II price for **March 2021** is **\$15.07/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 **\$20.35/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 22, 2021 and therefore should be passed on in minimum prices effective May 2, 2021. 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 **\$0.20/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, 2021 to December 31, 2021
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 #06-21**

Filing number: **2021-111**

Effective date: 5/30/2021

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 **June 2021** minimum Class I price is **\$21.54/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 **\$24.88/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.96.**

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 **\$17.67/cwt.** and a Class IV price of **\$15.42/cwt.** for **April 2021.** The Class II price for **April 2021** is **\$15.56/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 **\$21.54/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 20, 2021 and therefore should be passed on in minimum prices effective May 31, 2021. 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, 2021 to December 31, 2021
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 #07-21**

Filing number: **2021-137**

Effective date: 7/4/2021

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 **July 2021** minimum Class I price is **\$20.67/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 **\$0.93/cwt.** handling fee for a total of **\$24.47/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 **\$18.96/cwt.** and a Class IV price of **\$16.16/cwt.** for **May 2021**. The Class II price for **May 2021** is **\$16.22/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 **\$20.67/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 June 24, 2021 and therefore should be passed on in minimum prices effective July 4, 2021. 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 **\$0.20/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, 2021 to December 31, 2021
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 #08-21**

Filing number: **2021-151**

Effective date: 8/1/2021

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 **August 2021** minimum Class I price is **\$20.15/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 **\$0.93/cwt.** handling fee for a total of **\$23.95/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 **\$17.21/cwt.** and a Class IV price of **\$16.35/cwt.** for **June 2021.** The Class II price for **June 2021** is **\$16.66/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 **\$20.15/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 22, 2021 and therefore should be passed on in minimum prices effective August 1, 2021. 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, 2021 to December 31, 2021
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 #09-21**

Filing number: **2021-171**

Effective date: 8/29/2021

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 **September 2021** minimum Class I price is **\$19.84/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 **\$24.11/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.89**.

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 **\$16.49/cwt.** and a Class IV price of **\$16.00/cwt.** for **July 2021**. The Class II price for **July 2021** is **\$16.83/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 **\$19.84/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 19, 2021 and therefore should be passed on in minimum prices effective August 29, 2021. 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, 2021 to December 31, 2021
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 #10-21**

Filing number: **2021-192**

Effective date: 10/3/2021

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 **October 2021** minimum Class I price is **\$20.33/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 **\$0.93/cwt.** handling fee for a total of **\$24.13/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.89**.

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 **\$15.95/cwt.** and a Class IV price of **\$15.92/cwt.** for **August 2021**. The Class II price for **August 2021** is **\$16.51/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 **\$20.33/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 23, 2021 and therefore should be passed on in minimum prices effective October 3, 2021. 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 **\$0.20/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, 2021 to December 31, 2021
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 #11-21**

Filing number: **2021-222**

Effective date: 10/31/2021

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 **November 2021** minimum Class I price is **\$21.23/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 **\$24.57/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.94.**

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 **\$16.53/cwt.** and a Class IV price of **\$16.36/cwt.** for **September 2021.** The Class II price for **September 2021** is **\$16.89/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 **\$21.23/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 21, 2021 and therefore should be passed on in minimum prices effective October 31, 2021. 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, 2021 to December 31, 2021
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 #12-21**

Filing number: **2021-239**

Effective date: 11/28/2021

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 **December 2021** minimum Class I price is **\$22.42/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 **\$25.76/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$4.04.**

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 **\$17.83/cwt.** and a Class IV price of **\$17.04/cwt.** for **October 2021.** The Class II price for **October 2021** is **\$17.08/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 **\$22.42/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 18, 2021 and therefore should be passed on in minimum prices effective November 28, 2021. 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, 2021 to December 31, 2021
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 #01-22**

Filing number: **2021-260**

Effective date: 1/2/2022

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 2022** minimum Class I price is **\$22.96/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 **\$26.30/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 **\$18.03/cwt.** and a Class IV price of **\$18.79/cwt.** for **November 2021**. The Class II price for **November 2021** is **\$18.40/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 **\$22.96/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, 2021 and therefore should be passed on in minimum prices effective January 2, 2022. 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 **\$0.20/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, 2021 to December 31, 2021
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

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

Filing number: **2021-138**

Effective date: 7/4/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To update a number of provisions consistent with modern racing rules, including: that it is the trainer's responsibility to ensure that their horse is raced correctly; that the horse remains in the paddock until either tested or released per the Presiding Judge; adopting the United States Trotting Association's language on the use of the whip; paying purses to the top six finishers, removing the Querrion rule, revising the coupling language, and numerous other changes.

Basis statement:

The Commission proposed numerous amendments and updates to ch. 7. Some of the more substantive proposals included eliminating the need to requalify following an equipment change, repealing the Querrion Rule, modifying the requirement for coupled entries, a requirement that horses not leave the paddock until it has been determined which horse need testing, a reorganization of the whipping rule to model the US Trotting Association, and extending purse payments to six horses. The Commission took extensive testimony and received written comments on the proposals, and it deliberated the merits of many specific amendments.

The Commission adopted some proposals, modified others, and rejected payments to six horses based largely on comments received, and in some cases findings made by the Commission.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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

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

Filing number: **2021-139**

Effective date: 7/4/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To prevent the coupling of horses in a race and the segregation of horses with common ownership into separate divisions. Also to remove the subsection stating that Sire Stakes horses must adhere to the 45-day rule.

Basis statement:

The Commission proposed three amendments to ch. 9. The first amendment eliminates the requirement that stakes horses must comply with the 45 day rule found in ch. 7. The second amendment prohibits the coupling of horses entered into a Sire Stakes race, and the third amendment prohibits the segregation of horses with common ownership into separate divisions during the draw.

The Commission reviewed the comments and deliberated on the merits of the proposals. The Commission determined that the proposed amendment relating to the 45 day rule was reasonable, however requested that it be clear that horses must meet Sire Stakes standards. Consequently, the Commission elected to adopt the proposed amendments with the alteration.

The other two amendments regarding coupling and segregation both received a multitude of comments opposing the proposed changes. Upon review of the comments and discussion by the Commission, both amendments were rejected.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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

Chapter number/title: **Ch. 13**, Pari-Mutuel Wagering

Filing number: **2021-065**

Effective date: 3/29/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To modernize the language to reflect current bets accepted, provide a table illustrating the minimum wagers as they pertain to the various types of betting pools and specify when certain types of bets can be wagered.

Basis statement:

Ch. 13 of the Commission's rules had not been extensively reviewed or amended in many years. At the same, industry standards for pari-mutuel oversight and the types of wagers that are offered and popular had changed significantly over recent years, leaving ch. 13 largely out of sync with modern day standards. Consequently, the Commission undertook a complete overhaul of ch. 13, including the addition of a number of more modern wagers and a reduction in the minimum wager amounts.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §1893(1)(B)
Chapter number/title: **Ch. 18**, ATV Municipal/County Grant-in-Aid Program
Filing number: **2021-088**
Effective date: 5/3/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This amendment will:

- Raise the State's grant cost share from 70% up to but not to exceed a rate of 90%, reducing the local match from 30% to 10%;
- Add counties to the eligible government entities to receive the Grant-in-Aid Program.

Basis statement:

The amendment to the rules of the ATV Municipal Grant-in-Aid Program raise the State's grant cost share from 70% up to but not to exceed a rate of 90%, reducing the local match from 30% to potentially 10%. The amendment also, adds counties to the eligible government entities to receive the Grant-In-Aid Program. Adding counties, as an eligible government entity, to receive funding through the ATV Municipal Grant-In-Aid Program.

Many ATV clubs are financially unable to achieve the 30% math requirement. By reducing the local match requirement, this amended rule holds the clubs responsible for a portion of the funding without imposing an unrealistic financial burden. The amendment also allows for regional consolidation for grant administration and makes it possible to more effectively fund ATV trails unorganized territories. Anticipated additional revenue to the ATV program makes it possible to increase the state's cost share at this time.

The issue of the state not reimbursing a high enough level was raised by both landowners and clubs as part of the Governor's ATV Task Force which is why we are addressing it through rule changes.

Fiscal impact of rule:

An increase in cost to the grant program of approximately \$500,000 is projected, based on grants made in 2020. This increase in the amounts granted to municipalities/counties will be covered by the increase in ATV registration revenues that the bureau began receiving in fiscal 2020.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 1 MRS §408-A; 12 MRS §§ 684, 685-B(2), 685-C(3), 685-F
Chapter number/title: **Ch. 1** (*Repeal and replace*), Fee Schedule
Filing number: **2021-170**
Effective date: 11/1/2021
Type of rule: Major Substantive
Emergency rule: No

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

Basis statement:

The Land Use Planning Commission has finally adopted this repealed and replaced fee schedule in an ongoing practice to ensure that each of the agency's rules are appropriate, fair, and current. Specifically, the replacement rule is viewed as refinements to ensure an equitable assessment of fees, with due consideration of project complexity and impacts; ensuring that fees are commensurate with the proposed development or services.

Fiscal impact of rule:
None identified

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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)

Chapter number/title: **Ch. 2 (New)**, Definitions

Filing number: **2021-177**

Effective date: 11/1/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

The revisions will not change the regulatory effect of the rules and therefore will not have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §§ 684, 685-B(1-B), 685-C(5)

Chapter number/title: **Ch. 3 (Repeal)**, Delegation of Authority to Staff

Filing number: **2021-183**

Effective date: 11/1/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Use Planning Commission repeals ch. 3 and repeals and replaces ch. 4 and 5. The changes for each of these three rules collectively will improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. Some edits simplify the rule by consolidating notice provisions, clarify existing practice, and include provisions previously located in ch. 10 of the Commission's rules. All other revisions represent typical rule maintenance.

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

The revisions will not change the regulatory effect of the rules and therefore will not have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §§ 684, 685-B(1-B), 685-C(5)

Chapter number/title: **Ch. 4** (*Repeal and replace*), Rules of Practice

Filing number: **2021-184**

Effective date: 11/1/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Use Planning Commission repeals ch. 3 and repeals and replaces ch. 4 and 5. The changes for each of these three rules collectively will improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. Some edits simplify the rule by consolidating notice provisions, clarify existing practice, and include provisions previously located in ch. 10 of the Commission's rules. All other revisions represent typical rule maintenance.

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

The revisions will not change the regulatory effect of the rules and therefore will not have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §§ 684, 685-B(1-B), 685-C(5)

Chapter number/title: **Ch. 5** (*Repeal and replace*), Rules for the Conduct of Public Hearings

Filing number: **2021-185**

Effective date: 11/1/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Use Planning Commission repeals ch. 3 and repeals and replaces ch. 4 and 5. The changes for each of these three rules collectively will improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. Some edits simplify the rule by consolidating notice provisions, clarify existing practice, and include provisions previously located in ch. 10 of the Commission's rules. All other revisions represent typical rule maintenance.

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

The revisions will not change the regulatory effect of the rules and therefore will not have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 372C (Dallas Plt. & Sandy River Plt. —
Franklin County) (petitioner Arctaris Saddleback Company)
Filing number: **2021-036**
Effective date: 1/27/2021
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 372C

**PETITIONER OR
COPETITIONER**

Arctaris Saddleback
Company

LOCATION

Dallas Plt. & Sandy River Plt.,
Franklin County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 781 (Osborn — Hancock County) (petitioner
Christina Ryan & Jacob Ribar)
Filing number: **2021-096**
Effective date: 4/29/2021
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 781

**PETITIONER OR
COPETITIONER**

Christina Ryan
& Jacob Ribar

LOCATION

Osborn,
Hancock County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards
Filing number: **2021-178**
Effective date: 11/1/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

Not applicable to ch. 10 pursuant to 12 MRS §685-A(7-A)(B).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 785 (Winterville Plt. — Aroostook County)
(petitioner Reynold and Iris Raymond)

Filing number: **2021-238**

Effective date: 11/17/2021

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.

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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)

Chapter number/title: **Ch. 16**, Rules Relating to Large Lot Land Divisions

Filing number: **2021-179**

Effective date: 11/1/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The revisions collectively improve user convenience by consolidating or reorganizing provisions without changing their regulatory effect, and revise visual characteristics to simplify or otherwise clarify each rule. All other revisions represent typical rule maintenance.

Fiscal impact of rule:

The revisions will not change the regulatory effect of the rules and therefore will not have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §§ 4348(8), 4349(5)
Chapter number/title: **Ch. 210** (*New*), Standards for Pharmacy Benefits Managers
Filing number: **2021-037**
Effective date: 2/14/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule is to implement LD 1504, “An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management,” enacted as PL 2019 ch. 469. This legislation specifically authorizes routine technical rules concerning network adequacy and fiduciary duties that a prescription benefit manager owes to carriers that it contracts with.

Basis statement:

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts 02-031 CMR Chapter 210, “Standards for Pharmacy Benefits Managers.” Pursuant to a July 29, 2020 Notice of Rulemaking, Superintendent Cioppa held a public hearing on August 20, 2020, and the public comment period was open until August 31, 2020 at 4:30 p.m. The primary purpose of the proposed rule is to implement 24-A MRS ch. 56-C (§§ 4347 through 4350-E), enacted by PL 2019 ch. 469 (LD 1504, “An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management.”) This legislation specifically authorizes routine technical rules concerning pharmacy benefits manager (PBM) licensure and network adequacy.

The Superintendent adopts the rule with miscellaneous, non-substantive editorial corrections, such as conforming terminology between the rule and the statute. The Superintendent also adopts the specific changes discussed below 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 proposed rule.

Fiscal impact of rule:

No fiscal impact on state government.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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; 29-A §1601(10)
Chapter number/title: **Ch. 391**, Motor Vehicle Insurance Identification Cards
Filing number: **2021-258**
Effective date: 12/21/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule is to implement a new provision at 29-A MRS §1601(10), in the General Financial Responsibility subchapter, requiring that motor vehicle insurance identification cards list any person excluded from coverage under a personal motor vehicle insurance policy.

Basis statement:

Superintendent of Insurance Eric Cioppa hereby amends ch. 391, “Motor Vehicle Insurance Identification Cards.” This amendment updates the existing rule to conform with Public Law 2021 ch. 200, “An Act To Include Excluded Individuals on Insurance Cards.” That law revises 29-A MRS §1601 and requires that motor vehicle insurance identification cards list those drivers, if any, who are specifically excluded from coverage under the policy. Because 24-A MRS §2412(7) requires the Superintendent to adopt rules that prescribe the form of insurance identification cards, an amendment to ch. 391 is necessary.

Fiscal impact of rule:

No fiscal impact on state government.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 2793

Chapter number/title: **Ch. 851** (*New*), Clear Choice Designs for Individual and Small Group Health Plans

Filing number: **2021-124**

Effective date: 6/8/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule is to develop health plan cost share designs for individual and small group health plans as set out in 24-A MRS §2793.

Basis statement:

The primary purpose of the proposed rule is to develop standardized health plan cost-sharing designs as set out in 24-A MRS §2793. At this time, section 2793 applies to both the individual and small group markets. However, the Legislature will be considering whether to apply Clear Choice designs exclusively to the individual market until the individual and small group markets are pooled under 24-A MRS §2792, in light of the decision to defer implementation of the pooled market until 2023.

Because Clear Choice will, in any event, be proceeding in the individual market in 2022, carriers need clarity as to what will be required. Therefore, rather than withdrawing this proposed rule until the Legislature has had the chance to act, the Superintendent is adopting the rule without making any changes at this time to provisions relating to the small group market. Those provisions will be addressed in a subsequent rulemaking, because we do not yet have statutory authority to defer the applicability of Clear Choice to the small group market until the pooled market is implemented.

Fiscal impact of rule:

No fiscal impact on state government.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2517
Chapter number/title: **Ch. 917**, Suitability in Annuity Transactions
Filing number: **2021-128**
Effective date: 1/1/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule, originally adopted in 2007, is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. The amendments adopt a best interest standard of conduct for producers and insurers and comply with Section 989J of the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* by adopting standards that meet or exceed the minimum requirements of the NAIC model rule.

Basis statement:

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts amendments to ch. 917, "Suitability in Annuity Transactions." Pursuant to a November 10, 2020 Notice of Rulemaking, Superintendent Cioppa held a public hearing on December 10, 2020. The public comment period was open until January 8, 2021 at 4:30 p.m.

The purpose of the proposed amendments is to adopt a best interest standard of conduct for producers and insurers and comply with Section 989J of the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* by adopting standards that meet or exceed the minimum requirements of the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation.

The Superintendent adopts the rule with miscellaneous, non-substantive editorial corrections, such as conforming capitalization, misspellings, and misnumbered 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 proposed rule.

Fiscal impact of rule:

No fiscal impact on state government.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 2736-C(2)(D), 2808-B(2)(D), 4319(4)

Chapter number/title: **Ch. 942** (*New*), Rating Factors and Loss Ratio Requirements for Health Plans

Filing number: **2021-133**

Effective date: 6/28/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule is to establish standards for age rating and for compliance with medical loss ratio requirements for health plans consistent with the *Affordable Care Act*.

Basis statement:

Superintendent of Insurance Eric Cioppa hereby adopts ch. 942, “Rating Factors and Loss Ratio Requirements for Health Plans.” This rule implements provisions of the Insurance Code added by PL 2019 ch. 5, *An Act To Protect Health Care Coverage for Maine Families*, incorporating various requirements of the federal *Affordable Care Act* (ACA) into Maine law. The rule adopts a uniform “age curve” (*i.e.*, a table of age rating factors) and clarifies that standards for family rating and loss ratio calculation are interpreted by the Superintendent under Maine law in the same manner as they have been interpreted under federal law through regulations promulgated by the Centers for Medicare and Medicaid Services (CMS).

Pursuant to a Notice of Rulemaking issued on December 10, 2020. Superintendent Cioppa held a public hearing on January 20, 2021, and the public comment period was open until February 5, 2021 at 4:30 p.m.

No written comments were received, and the only comment at the hearing was a question from Kristine Ossenfort, the Senior Government Relations Director at Anthem Blue Cross and Blue Shield of Maine. Anthem noted that the age curve appended to the rule is identical to the age curve currently required by CMS pursuant to the ACA, and questioned why it was necessary to codify it through rulemaking, which would make it more difficult to change the state age curve if the federal age curve were revised in the future.

Bureau staff explained that 24-A MRS §2736-C(2)(D) expressly requires the Superintendent to “adopt rules establishing a uniform age curve that is substantially similar to the age curve in effect on January 1, 2019 under the federal *Affordable Care Act*.” A similar rulemaking requirement for small group age rating is set forth at 24-A MRS §2808-B(2)(D). The rule was therefore adopted as proposed.

Fiscal impact of rule:

No fiscal impact on state government.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Bureau of Financial Institutions

Umbrella-Unit: **02-029**

Statutory authority: 9-B MRS §§ 214(2-B),(2-C), 215

Chapter number/title: **Ch. 141**, Assessments - Nondepository Trust Companies,
Uninsured Banks, and Merchant Banks (Regulation #41)

Filing number: **2021-259**

Effective date: 1/1/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the proposed rule is to reduce the assessment fee charged to state-chartered nondepository trust companies, uninsured banks, and merchant banks from 12 cents to 9 cents per \$10,000 in assets subject to assessment, and increase the minimum fee charged to state-chartered nondepository trust companies, uninsured banks, and merchant banks from \$2,000 to \$4,000 per year. Amended rates of assessment will become effective beginning the calendar quarter ending March 31, 2022.

Basis statement:

This regulation was promulgated to establish the assessments paid by nondepository trust companies, uninsured banks, and merchant banks and to provide for the transition from annual to quarterly payment of assessments. It is amended to reduce the rate paid and to set a new minimum assessment amount. The *Maine Banking Code* permits the Superintendent to define fiduciary assets under management, custody, or care and to change the minimum assessment whenever economic conditions warrant such a change. The Superintendent has determined that in light of current economic conditions the Bureau may accept reduced fees and continue to fulfill its duties under Title 9-B MRS.

Fiscal impact of rule:

None expected.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Securities

Umbrella-Unit: **02-032**

Statutory authority: 32 MRS §§ 16401-16405, 16605

Chapter number/title: **Ch. 510**, Broker-Dealers, Investment Advisers, and Others Using
the Internet for General Dissemination of Information about
Securities Products and Services

Filing number: **2021-123**

Effective date: 6/13/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose is to update definitions and to correct a textual error.

Basis statement:

The Securities Administrator amends Chapter 510 in order to update the rule's definitions of "Internet" and "Internet communication" and to correct a textual error in Section 3.

Fiscal impact of rule:

There are no fees associated with this rule, and there is no fiscal impact associated with the change adopted.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Securities
Umbrella-Unit: **02-032**
Statutory authority: 32 MRS §§ 16202(2)(D), 16605
Chapter number/title: **Ch. 536**, Securities Manuals
Filing number: **2021-091**
Effective date: 5/8/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The purpose of the amendment is to update the list of “nationally recognized securities manuals” available for use with the Maine Uniform Securities Act’s manual exemption at 32 MRS §16202(2)(D) by removing “Fitch” securities manuals, which are no longer being published.

Fiscal impact of rule:

There are no fees associated with this rule, and there is no fiscal impact associated with the change adopted.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation,
Electricians' Examining Board

Umbrella-Unit: **02-318**

Statutory authority: 22 MRS § 1812-G(3); 32 MRS §§ 2102, 2104, 2153-A(1)

Chapter number/title: **Ch. 120**, Electrical Installation Standards

Filing number: **2021-136**

Effective date: 7/2/2021

Type of rules: Routine Technical

Emergency rules: No

Principal reason or purpose for rule:

As required by 32 MRS §1153-A, all electrical installations must comply with the *National Electrical Code*, National Fire Protection Association standard #70 ("NEC") that is adopted by rule by the board, and the board must establish by rule technical standards for the proper installation of electrical equipment. These standards must conform as nearly as practicable to the NEC. This rulemaking would repeal the current Chapter 120, "Electrical Installation Standards" which adopts and incorporates by reference the 2017 NEC and replace with a new rule with the same title and in the same location that adopts and incorporates by reference the 2020 NEC.

Basis statement:

The Maine Electricians' Examining Board (the "Board") is charged by the Legislature with the regulation of electricians 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 §1153.

The adopted rulemaking adopts and incorporates by reference into board rule the 2020 NEC with certain amendments and exclusions.

The adopted rulemaking will repeal 02-318 Chapter 120, "Electrical Installation Standards" and replace with a new rule with the same title and in the same location that adopts and incorporates by reference into board rule the *2020 National Electrical Code*, National Fire Protection Association standard #70 ("2020 NEC"), subject to certain amendments and exclusions. The board's current Chapter 120 adopts and incorporates by reference the *2017 National Electrical Code*, subject to certain amendments and exclusions.

The adopted rule adopts the 2020 NEC with amendments to the following: Article 100, Definitions, Dormitory Unit; Article 200.6(D), Grounded Conductors of Different Systems; Article 210.5(C)(1)(b), Branch Circuits Supplied from More than One Nominal Voltage System, Posting of Identification Means; Article 210.8(B), Ground-Fault Circuit-Interrupter Protection for Personnel, Other Than Dwelling Units; Article 210.8(F), Ground-Fault Circuit-Interrupter Protection for Personnel, Outdoor Outlets; Article 215.12(C)(1)(b) Identification for Feeders, Identification of Ungrounded Conductors, Feeders Supplied from More than One Nominal Voltage System, Posting of Identification Means; Article 230.2(E) Number of Services, Identification; Article 334.10(3), Uses Permitted; Article 338.12(B)(1) and (2), Uses Not Permitted, Underground Service-Entrance Cable; Article 400.12(4), Uses Not Permitted, Where attached to building surfaces; Article 406.9(C), Receptacles in Damp or Wet Locations, Bathtub and Shower Space; Article 625.40, Electric Vehicle Branch Circuit; and Article 702.4(B)(2), Capacity and Rating, System Capacity, Automatic Transfer Equipment.

The adopted rule does not adopt Article 230.67, Surge Protection or Article 334.12(A)(2).

Fiscal impact of rules:

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Within the scope of the entire 2020 NEC and related amendments and exclusions, there are changes that may both increase and decrease the costs of electrical installations.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation,
Electricians' Examining Board

Umbrella-Unit: **02-318**

Statutory authority: 32 MRS §§ 1101, 1153, 1153-A

Chapter number/title: **Ch. 160** (*New*), Power Generation Systems as Electrical Installations

Filing number: **2021-194**

Effective date: 10/4/2021

Type of rules: Routine Technical

Emergency rules: No

Principal reason or purpose for rule:

In 2020, the Board engaged in the rulemaking process in an effort to clarify what portions of the installation of a photovoltaic system are considered an “electrical installation” as that term is defined in statute. This rule is a continuation of that effort and in response to comments received during that rulemaking and at the December 18, 2020 public hearing. This rule would create a new chapter in Board rules to explain when installations of power generation systems, including photovoltaic, fuel cell, or wind power generation systems, are, and are not, considered “electrical installations.” The rule explains that while only licensed electricians may perform “electrical installations” as that term is defined in statute, the mere construction or placement of a support structure intended to hold or support a photovoltaic system (including racking and mounting equipment such as frames, racks, rails, and footings) that does not itself convert solar energy into electric energy does not constitute an “electrical installation” and therefore need not be performed by licensed electricians.

Basis statement:

The Maine Electricians' Examining Board (the “Board”) is charged by the Legislature with the regulation of electricians 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 §1153.

In 2020, the Board engaged in the rulemaking process in an effort to clarify what portions of the installation of a photovoltaic system are considered an “electrical installation” as that term is defined in statute. This proposed rule is a continuation of that effort and in response to comments received during that rulemaking and at the December 18, 2020 public hearing. This proposed rule would create a new chapter in Board rules to explain when installations of power generation systems, including photovoltaic, fuel cell, or wind power generation systems, are, and are not, considered “electrical installations.” The rule explains that while only licensed electricians may perform “electrical installations” as that term is defined in statute, the mere construction or placement of a support structure intended to hold or support a photovoltaic system (including racking and mounting equipment such as frames, racks, rails, and footings) that does not itself convert solar energy into electric energy does not constitute an “electrical installation” and therefore need not be performed by licensed electricians.

The rule states that for purposes of installing portions of photovoltaic power generation systems that constitute less than a complete installation: (A) “Photovoltaic system” includes all components used to convert solar energy into electric energy; (B) Installation of any component of a photovoltaic system that converts solar energy into electric energy constitutes an “electrical installation” as that term is defined by statute; (C) Making either an electrical connection of any component within a photovoltaic system, or an electrical connection to such system, constitutes an “electrical installation” as that term is defined by statute; and (D) the mere construction or placement of a support structure intended to hold or support a photovoltaic system (including

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

racking and mounting equipment such as frames, racks, rails, and footings) that does not itself convert solar energy into electric energy does not constitute an “electrical installation.”

Fiscal impact of rules:

The rule is meant to codify the Board’s ongoing interpretation of what does and does not constitute an “electrical installation” as it is defined in statute. It is unknown whether or to what extent this codification in rule of an existing statutory interpretation will have a fiscal impact.

In response to its proposed 2020 rulemaking (Chapter 100, Definitions, Photovoltaic Racking System), the Board received comments with regard to installation of racking systems and solar project costs.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Maine Board of Dental 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); PL 2021 ch. 44, 88, 163

Chapter numbers/titles: **Ch. 1,** Definitions
Ch. 2, Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities
Ch. 3, Qualifications for Expanded Function Dental Assistant Licensure
Ch. 5, Qualifications for Denturist Licensure
Ch. 6, Qualifications for Dentist Licensure
Ch. 11, Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities
Ch. 17, Requirements for Establishing a Board Approved Dental Hygiene Therapy Program

Filing numbers: **2021-248 thru 254**

Effective date: 12/15/2021

Type of rules: Routine Technical

Emergency rules: No

Principal reason or purpose for rules:

The changes are to fully implement the amendments to the qualifications for licensure enacted during the legislative session. In addition, the changes to Board rule ch. 17 reflect statutory amendment that removed the term “hygiene” from the dental the therapy educational qualifications in 2019; see 32 MRS §18345(2)(C) and (F).

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.

The changes to Board rules ch. 1, 2, 3, 5, 6, and 11 are to fully implement the qualifications for licensure based on the following emergency legislation enacted during the First Special Session of the 130th Maine Legislature:

Public Law 2021 chapter 44: "An Act to Remove the Advanced Cardiac Life Support Certification Requirement for Dental Therapists" -- effective May 5, 2021.

Public Law 2021 chapter 88: "An Act to Modify the Qualifications for Resident Dentist Licensure" effective June 8, 2021.

Public Law 2021 chapter 163: "An Act to Modify Dental Licensure Requirements to Consider Credentialed Individuals from Other Jurisdictions" - effective June 11, 2021.

In addition, the changes to Board Rules chapter 17 reflect a statutory amendment that removed the term "hygiene" from the dental therapy educational qualifications in the First Regular Session of the 129th Maine Legislature - See Public Law 2019 ch. 388 effective September 19, 2019.

Chapter 1 - "Definitions"

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- Adds the term "jurisdiction" which is defined as another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental profession.
- Chapter 2** - "Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities"
- Adds educational equivalency in meeting the dental hygiene degree requirements
- Removes the ACLS certification requirement for both provisional and dental therapy authorities
- Replaces "state and Canadian provinces" with "jurisdiction"
- Chapter 3**- "Qualifications for Expanded Function Dental Assistant Licensure"
- Replaces "state and Canadian provinces" with "jurisdiction"
- Chapter 5** - "Qualifications for Denturist Licensure"
- Replaces "state and Canadian provinces" with "jurisdiction"
- Chapter 6** -"Qualifications for Dentist Licensure"
- Adds educational equivalency in meeting the dentist degree requirements
- Replaces "state and Canadian provinces" with "jurisdiction"
- Removes the national and regional examination requirements for resident dentist licensure
- Requires board approved settings
- Chapter 11** - "Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities"
- Adds the term "jurisdiction" to the endorsement provisions
- Chapter 17** - "Requirements for Establishing a Board Approved Dental Hygiene Therapy Program"
- Revises the Board's name and replaces the term "dental hygiene therapy" with "dental therapy" consistent with current statutory language

Fiscal impact of rules:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation
Plumbers' Examining Board

Umbrella-Unit: **02-395**

Statutory authority: 32 MRS §§ 3403-A, 3403-B(1), 3302

Chapter number/title: **Ch. 4**, Installation Standards (including Incorporated by Reference:
2021 Uniform Plumbing Code:(IAPMO/ANSI UPC 1-2021))

Filing number: **2021-212**

Effective date: 1/1/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

As required by 32 MRS §3403-B, the board shall adopt minimum rules relating to plumbing, including a plumbing code. The proposed rulemaking would repeal the current ch. 4, *Installation Standards*, and replace with a new rule with the same title and in the same location that establishes installation rules and adopts and incorporates by reference the *Uniform Plumbing Code* ("UPC"), 2021 edition, subject to certain amendments and exclusions.

Basis statement:

The Maine Plumbers' Examining Board (the "Board") is charged by the Legislature with the regulation of plumbers 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 §3403-A(1). More specifically, the Board is directed pursuant to 32 MRS §3403-B(1) to adopt minimum rules relating to plumbing, including a plumbing code.

The proposed rulemaking would repeal the current ch. 4, *Installation Standards*, and replace with a rule with the same title and in the same location that adopts and establishes installation rules and incorporates by reference into Board rule the International Association of Plumbing and Mechanical Officials *Uniform Plumbing Code* ("UPC"), 2021 edition, subject to certain amendments and exclusions. The board's current ch. 4 adopts and incorporates by reference the 2015 UPC, subject to certain amendments and exclusions.

The proposed rule adopts the 2021 UPC with amendments to the following: ch. 102.8, Appendices; ch. 104.1, Permits Required; ch. 104.2, Exempt Work; ch. 104.3.1 Construction Documents; ch. 104.5, Permit Fees; ch. 105.2.6, Reinspections; ch. 105.3, Testing of Systems; ch. 218.0, Plumbing System; ch. 220.0, Roughing-In; ch. 315.1, Unions; ch. 422.2, Separate Facilities; ch. 605.12.2, Solvent Cement Joints; ch. 705.6.2, Solvent Cement Joints; ch. 807.3, Domestic Dishwashing Machine; ch. 901.0 General by adding ch. 901.4, Future Vents; and ch. 906.0, Vent Termination.

The proposed rule does not adopt ch. 104.3.2, Plan Review Fees; ch. 104.3.3, Time Limitation of Application; ch. 104.4.3, Expiration; ch. 104.4.4., Extensions; Table 104.5, Plumbing Permit Fees; ch. 105.4, Connection to Service Utilities; ch. 106.3, Penalties; ch. 107.0, Board of Appeals; ch. 107.1, General; ch. 107.2, Limitations of Authority; certain definitions contained in ch. 203.0, 204.0, 205.0, 206.0, 207.0, 208.0, 209.0, 214.0, 215.0, 216.0, 218.0, 219.0, 221.0, 222.0, 223.0, 224.0; ch. 312.12.3, Tub Waste Openings; ch. 313.7, Gas Piping; ch. 319.0, Medical Gas and Vacuum Systems; ch. 319.1, General; ch. 5, Water Heaters, except for certain sections; ch. 609.12, Pipe Insulation, including 609.12.1 and 609.12.2; ch. 612.0, Residential Fire Sprinkler Systems, which includes ch. 612.1 through 612.7.2 and any tables referenced therein; ch. 713.5, Permit; Table 721.1, Minimum Horizontal Distance Required from Building Sewer (feet); ch. 1101.6 Subsoil Drains, which includes ch.s 1101.6.1-1101.6.5; ch. 1101.7, Building Subdrains; ch. 1101.8,

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Areaway Drains; ch. 1101.9, Window Areaway Drains; ch. 1101.10 Filling Stations and Motor Vehicle Washing Establishments; ch. 1101.11, Paved Areas; ch. 12, Fuel Gas Piping; and ch. 13, Health Care Facilities and Medical Gas and Medical Vacuum Systems.

The Board held a public hearing on June 7, 2021, to take oral comments, and continued to accept written comments through 5:00 pm on June 17, 2021. After consideration of the comments received at the public rulemaking hearing and of the written comments received, the Board voted to adopt the proposed rule at its August 9, 2021 meeting, with one modification to correct a typo in Section 1(C)(1)(c) of the proposed rule (first sentence of 104.2 Exempt Work, subsection (3), stated “indirect or indirect” when it should have stated “direct or indirect”). The adopted rule is consistent with the terms of the proposed rule.

Fiscal impact of rule:

Within the Scope of the Rule, which establishes plumbing installation standards and adopts the 2021 UPC with certain amendments and exclusions, there are changes that may both increase and decrease the costs of plumbing installations. The rule amends ch. 807.3, “Domestic Dishwashing Machine”, which may decrease costs and adds ch. 901.4, “Future Vents”, which may increase costs in new construction.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 22 MRS §1812-G(3); 32 MRS §§ 2102, 2104, 2153-A;

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: **2021-176**

Effective date: 9/6/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

Reduces the number of hours of the Certified Nursing Assistant (CAN) Prescribed Curriculum to coincide with changes in the CAN curriculum, provides for more flexibility with additional CAN skills training, quantifies the meaning of the ability to read and write English, and clarifies what recently graduated means in the section for certified nursing assistants from out of state.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation,
Board of Complementary Health Care Providers

Umbrella-Unit: **02-502**

Statutory authority: 32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3),(4),
(5), 12537(2), (3),(4),(5), 12538, 12543(1)

Chapter numbers/titles: **Ch. 1**, Definitions
Ch. 4-A (*New*), Licensure Requirement for Certified Professional
Midwives
Ch. 4-B (*New*), Licensure Requirements for Certified Midwives
Ch. 5, Standards for Continuing Professional Education for
Acupuncturists, Naturopathic Doctors, Certified Professional
Midwives and Midwives
Ch. 6-A (*New*), Standards Relating to Certified Professional Midwives
Authority to Obtain and Administer Drugs, Medical Devices and
Scope of Practice
Ch. 6-B (*New*), Standards Relating to Certified Midwives'
Prescriptive Authority and Scope of Practice
Ch. 7, Grounds for Discipline

Filing numbers: **2021-046 to 052**

Effective date: 3/1/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The principal purpose to implement the Public Law 2016 ch. 502 that was enacted into law on April 29, 2016 (LD 690, *An Act to Ensure the Safety of Home Birth*). The rules clarify certain terms used in the practice of professional midwifery, sets standards for licensing professional midwives and certified professional midwives, update continued professional education requirements to include certified professional midwives and certified midwives and clarifies continuing education hardship requests and carry over hours for all licensees licensed by the Board, standards for certified professional midwife practice including authorization to order and interpret medical laboratory tests and ultrasound scanning and obtain equipment and supplies, standards relating to certified midwives' prescriptive authority and scope of practice, and updates the grounds for discipline to include certified professional midwives and certified midwives.

Basis statement:

Public Law 2016 ch. 502 that was enacted into law on April 29, 2016 (LD 690, *An Act to Ensure the Safety of Home Birth*). The purpose of the rules is to implement the licensing and practice requirements for professional midwives and certified professional midwives. The rules clarify certain terms used in the practice of professional midwifery, sets standards for licensing professional midwives and certified professional midwives, update continued professional education requirements to include certified professional midwives and certified midwives and clarifies continuing education hardship requests and carry over hours for all licensees licensed by the Board, standards for certified professional midwife practice including authorization to order and interpret medical laboratory tests and ultrasound scanning and obtain equipment and supplies, standards relating to certified midwives' prescriptive authority and scope of practice, and updates the grounds for discipline to include certified professional midwives and certified midwives.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

The initial Notice of Proposed Rulemaking was published on November 25, 2020. The Board held a hearing on December 16, 2020. The public comment period ended on December 28, 2020 at 5:00 p.m. EST.

Note: The Board received an overwhelming number of comments on the matter of limitations on scope of practice for certified professional midwives, specifically as it relates to home births where the likelihood of multifetal gestation, breech presentations, and vaginal birth after a cesarean section (VBACs) conditions, as described in 32 MRS § 12536 section 1. The rule as proposed does not address midwives performing home births where there is a condition of vaginal birth after a cesarean section (VBACs), multifetal gestation or breech presentation because it did not have the statutory authority to unilaterally adopt rules on the limitations on scope of practice prior to January 2021. The Board appreciates all the comments received and will consider rulemaking in early 2021 to address the limitations on scope of practice.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation,
Board of Complementary Health Care Providers

Umbrella-Unit: **02-502**

Statutory authority: 32 MRS §§ 12503, 12536(2)

Chapter numbers/titles: **Ch. 6-C** (*New*), Standards for Vaginal Birth After Cesarean
Section (VBAC)

Filing numbers: **2021-175**

Effective date: 9/4/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

During its public hearing December 16, 2020 to adopt rules to implement the licensing and practice requirements for professional midwives and certified professional midwives, the Board received an overwhelming number of comments on the matter of limitations on scope of practice for certified professional midwives, specifically as it relates to home births where the likelihood of a vaginal birth after a cesarean section (VBAC) condition exists, as described in 32 MRS §12536 section 1. The rule proposed at the time did not address midwives performing home births where there is a condition of vaginal birth after a cesarean section (VBAC) because it did not have the statutory authority to unilaterally adopt rules on the limitations on scope of practice prior to January 2021. The purpose of this rule proposal is to address the limitations on scope of practice for standards for both Certified Midwives and CPMs when providing birth services for VBAC clients in a home of freestanding birth center (VBAC).

Fiscal impact of rule:
None

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 1208-B
Chapter number/title: Ch. 1, Detention and Correctional Standards for Counties and Municipalities
Filing number: 2021-029
Effective date: 1/20/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary reasons were to amend the current rule to make permanent and expand the emergency amendment governing plans to prevent and control outbreaks of coronavirus and other infectious and communicable diseases; to make the rule consistent with a recently passed statute governing visits to jail inmates; and to add provisions governing pregnancy services, medication-assisted treatment, naloxone, and use of force.

Basis statement:

The primary reasons this rule was adopted included to amend the prior rule so that the jails will be required to have plans in place to prevent and control the outbreak of infectious and communicable diseases that are reviewed by the Department of Corrections and the Maine CDC and will be required to report any such outbreaks to the Department and the CDC; will be required to provide the opportunity for in-person and contact visitation to jail inmates unless one of the exceptions set out in statute exists; will be required to provide female inmates with pregnancy prevention and management services; will be required to provide inmates with a substance use disorder with medication assisted treatment if medically necessary; and will be required to have naloxone available. Also, the rule was amended to require that each jail separately or jointly with other jails appoint a board of visitors. Finally, a primary reason was to require that the jails implement policies, procedures, and practices to prevent the use of excessive force, to include a prohibition on strangleholds, chokeholds, carotid holds, and other techniques that physically compromise the airway, breathing, or blood flow to the head in circumstances where non-deadly force is appropriate; duty to intervene in instances of excessive force; and lack of bias in the use of force.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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
Chapter number/title: **Ch. 2** (*Repeal*), Change of Use, Downsizing, or Closure of Correctional Facilities
Filing number: **2021-198**
Effective date: 10/6/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The rule, ch. 2, *Change of Use, Downsizing, or Closure of Correctional Facilities*, will be repealed because the State Board of Corrections and its statutory authority no longer exist, and the rule is therefore unenforceable. The original purpose of the rule was to outline the process and standards governing any change of use, including the reassignment of services, downsizing, or closure of a state adult correctional facility or county jail pursuant to 34-A MRS §1803 sub-§2, which has been repealed.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 5 MRS §9001; 34-A MRS §1403
Chapter number/title: Ch. 5 (New), Advisory Rulings
Filing number: 2021-167
Effective date: 8/24/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The purpose of the rule is to develop a process for the submission, consideration, and disposition of requests for advisory rulings submitted by interested persons as required by 5 MRS §9001.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: PL 2021-ch. 376
Chapter number/title: Ch. 10, Policy and Procedures Manual – Adult:
Subsection 27.2, Supervised Community Confinement
Filing number: 2021-215
Effective date: 10/18/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

In accordance with 5 MRS §8054, the Department is amending CMR 03-201 ch. 10 §27.2, “Supervised Community Confinement”, on an emergency basis to immediately implement the eligibility revisions enacted in Section 2 of PL 2021 ch. 376, entitled “An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration.” This emergency rule is necessary to ensure that the provisions in the Department’s rule governing who is eligible for transfer to supervised community confinement are consistent with the expanded eligibility in this new legislation and in light of the continued COVID-19 pandemic, which poses an immediate threat to public health, safety, and general welfare. Specifically, the Department’s emergency rule adopts Section 2 of PL 2021 ch. 376, on an emergency basis to expand the number of prisoners who are eligible for transfer to supervised community confinement.

This emergency rule is being adopted without notice of proposed rulemaking and without public comment or hearing, in light of the statute taking effect on October 18, 2021, the Department’s consequent inability to engage in rulemaking before that date, and the Department’s need to change the rule on that date due to the above stated emergency.

This emergency rule is a routine technical rule that will remain in effect for up to ninety (90) days pursuant to 5 M.S §8054(3). To avoid any lapse of the new eligibility rule, the Department is planning to engage in the standard rulemaking process, which will, in addition to other non-emergency changes, propose these changes to become permanent.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 19-A MRS §4014
Chapter number/title: Ch. 15, Batterer Intervention Program Certification
Filing number: 2021-002
Effective date: 1/15/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary reason is to amend the current rule to add provisions designed to help certified batterer intervention programs deliver their classes safely during the COVID-19 pandemic and similar emergencies.

Basis statement:

The primary reason this rule was adopted was to amend the prior rule to add provisions designed to help certified batterer intervention programs deliver their classes safely during the COVID-19 pandemic and similar emergencies. A new section is added to the rule (section 11) for certified batterer intervention programs to deliver their classes via video conferencing groups if they are not able to offer in-person groups that comply with health and safety guidelines when a State of Emergency has been declared by the Governor or at the discretion of the Department of Corrections. There is also a provision for allowing an individual participant for whom there are health and safety concerns to attend a group via video conferencing. There is a provision for such a participant who does not have access to video conferencing technology to attend via phone until access to video conferencing technology is gained. There are provisions for notification to victims and others when participants are not attending in person. Finally, there are provisions that allow recordings of groups by educators and monitors for quality assurance purposes.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Education (jointly with the Department of Human Services)
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §§ 6352-6358; 22 MRS §806
Chapter number/title: Ch. 126 (DHHS: Ch. 261), Immunization Requirements for School Children
Filing number: 2021-186
Effective date: 9/25/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department of Health and Human Services - Maine Center for Disease Control and Prevention (DHHS) and the Maine Department of Education (DOE) are jointly adopting this routine technical rule change to implement PL 2019 ch. 154: *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* (the "Act") by amending *Immunization Requirements For School Children*, a joint rule that specifies the diseases for which immunity or immunization is required for children entering elementary and secondary school. The Act prohibits the inclusion of any provision governing medical exemptions in this rule. (PL 2019 ch. 154 §7). The Act repeals the exemption from required immunization for school students who object based on a sincere religious belief or philosophical reasons, effective September 1, 2021, with exceptions for certain students, including those participating in distance learning programs and those covered by an individualized education plan. Those students who have previously declined immunizations based on religious or philosophical objection and are otherwise not eligible for exemptions permitted by law, including those attending elementary or secondary schools for pre-kindergarten instruction, will be subject to current immunization requirements for specified diseases. This rule requires schools to include in their annual reports any applicable immunization requirements adopted by ordinance or policy, in addition to the immunization status of all students, including immune students, exempt and non-immunized students. Additionally, these rule changes include new and revised definitions; add a vaccine schedule for pre-kindergarten students; clarify existing authority and responsibility to exclude an individual from school when there is a public health threat pursuant to 20-A MRS §§ 6301, 6356(1), 22 MRS ch. 250, and 10-144 CMR ch. 258 and responsibility related to non-immunized and exempt students. Finally, changes are adopted to the format of the rule for conformity with Maine CDC rulemaking standards.

Basis statement:

This joint rule is established to ensure a safe and healthful school environment for all Maine students by requiring all children entering public or private schools in the State of Maine to receive the required vaccines recommended by the Federal Centers for Disease Control (CDC) and the Advisory Committee on Immunization Practices (ACIP).

This rule prescribes the dosage for required immunization for students enrolled in or attending in-person classes or remote learning program instruction for pre-kindergarten through grade 12, clarifies circumstances requiring exclusions from school, and refines record-keeping and reporting requirements for school officials specific to children enrolled in or attending a school, including immune students, students exempt from immunization requirements in accordance with 20-A MRS §6355 and the rule, and non-immunized students. The adopted rule includes changes made based on public comment and recommendations by the Office of Attorney General, which the Department determined further clarify proposed

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

provisions and, as non-substantive in nature, do not meet the threshold to require further public comment.

Public Law ch. 154 (introduced as LD798): *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* was signed by Janet Mills on May 24, 2019. This new law, which takes effect September 1, 2021, removes the provisions permitting exemption from immunization requirements, based on religious and philosophical objection, and prohibits the rule from including provisions governing medical exemptions. This rule implements the requirement that all students provide a complete immunization record or a signed medical exemption that is provided by a Maine-licensed physician, nurse practitioner (NP) or physician assistant (PA) to enroll and/or attend a public or private elementary or secondary school in the State of Maine, unless otherwise exempt in accordance with this law and the adopted rule.

The Department determines that this rule adoption has no significant financial impact. This rule is supported by the Maine Immunization Program providing vaccines at no cost for children in the State, including all required school vaccines. Additionally, the rule provides for a child who has not receive vaccinations in accordance with the rule, to consult with a Maine-licensed physician, NP or PA to advise on a revised immunization schedule to catch up on required vaccination doses.

Fiscal impact of rule:

No significant financial impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 5 MRS §8051; 38 MRS §§ 341-D, 341-H
Chapter number/title: Ch. 4 (New), Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders
Filing number: 2021-225
Effective date: 11/3/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The Department is recommending that the Board adopt a new rule, Chapter 4, *Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders*, to govern proceedings in which hearings are held by the Board on appeals of certain emergency or unilateral administrative orders issued by the Commissioner. Some of the types of emergency or unilateral administrative orders issued by the Commissioner in the exercise of the Commissioner's statutory responsibility to protect public health, safety and welfare, and the environment are identified in section 2 of the proposed Chapter 4 rule.

Currently, the Department does not have in place specific procedural rules governing the conduct of such Board hearings. The Chapter 4 rule establishes procedures similar in nature to those set forth in the existing Department rule Chapter 3, *Rules Governing the Conduct of Licensing Hearings*. Chapter 3 does not apply to emergency or unilateral administrative orders issued by the Commissioner.

Fiscal impact of rule:

Chapter 4 provides a procedural framework for the Board to conduct certain types of hearings and is not anticipated to result in any fiscal impacts.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §585-A
Chapter number/title: Ch. 100, Definitions Regulation
Filing number: 2021-033
Effective date: 2/9/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments will clarify the geographic extent of the Ozone Transport Region within the State of Maine.

Basis statement:

On February 6, 2020, the Maine Board of Environmental Protection voted to authorize the submission on behalf of the Governor of a petition to the Environmental Protection Agency (EPA) Administrator, pursuant to Section 176A of the *Clean Air Act* (CAA), to remove certain portions of Maine from the Ozone Transport Region (OTR).

Section 176A(a)(2) of the CAA provides that the Administrator may remove any state or portion of a state from the OTR whenever the Administrator has reason to believe that control of emissions in that state or portion of the state will “not significantly contribute to the attainment of the standard [the ozone National Ambient Air Quality Standards (NAAQS)] in any area in the region.” The Department’s Section 176A(a)(2) petition is based on a technical demonstration that emissions from northern, western, and far eastern Maine are not significant contributors to nonattainment of the ozone standard in other states, nor do they interfere with maintenance or attainment of the ozone standard in those Maine municipalities that will remain in the OTR. The petition was submitted on February 24, 2020, and is currently being reviewed by EPA.

During its review of the Department’s petition, EPA notified the Department that amending the definition of “Ozone Transport Region” in the Department’s ch. 100, *Definitions Regulation*, is necessary to facilitate processing of the Department’s petition because the current State Implementation Plan-approved definition includes the entire state of Maine:

111. Ozone Transport Region. "Ozone Transport Region" (OTR) means that part of the State of Maine included in a region of states comprised of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, established by Section 184 of the CAA for the control of interstate ozone air pollution. **For the State of Maine, the Ozone Transport Region includes all of the counties in the State.** (emphasis added)

Because EPA approval of the Department’s Section 176A Petition would reduce the geographic extent of the OTR in Maine, the Department proposed to revise the last sentence of this definition to eliminate the potential conflict with the OTR as modified through the petition process.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: PL 2021 ch. 192
Chapter number/title: Ch. 147 (New), Hydrofluorocarbon Prohibitions
Filing number: 2021-262
Effective date: 1/4/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting 06-096 CMR ch. 147, *Hydrofluorocarbon Prohibitions*, as a new rule in order to fulfill the requirements of Maine Public Law ch. 192 of 2021, approved by the Legislature last session and signed into law by the Governor on June 14, 2021. Hydrofluorocarbons, or HFCs, have been identified as powerful greenhouse gases, and as such are the focus of a multi-state effort to remove them from circulation to help fight climate change. The prohibitions and timetable in the law and in the proposed rule are the result of this collaborative effort, which included extensive consultation with industries involved in the manufacture and distribution of these substances.

Implementation of this rule will help achieve the state's greenhouse gas emission reduction requirements set forth in 38 MRS Section 576-A.

Basis statement:

Hydrofluorocarbon (HFC) compounds were introduced as replacements for chlorofluorocarbons (CFCs) when it was discovered that CFCs were interfering with the atmosphere's ozone layer. While that effort was successful, it has since been determined that HFCs are extremely powerful greenhouse gases, with hundreds to thousands of times the global warming potential of carbon dioxide. In an effort to reduce the harmful effects of HFCs, and in furtherance of the Governor's climate-related goals, the Legislature enacted Public Law 2021 ch. 192, *An Act To Limit the Use of Hydrofluorocarbons To Fight Climate Change*. This law requires the Department to establish very specific rules regarding the use of HFCs in the state.

The EPA has finalized a rule under the federal American Innovation in Manufacturing Act requiring a gradual phase-down of HFC use by 2036. Maine is among a number of states that have chosen to act more swiftly to restrict these dangerous chemicals. The prohibitions in this rule are tailored to HFCs for which alternatives are available and affordable, and the rule allows an affected person to petition for an exemption. The rule also defers to preemptive federal regulation in the event of a conflicting regulatory requirements.

Public notice of this rulemaking was published in the Secretary of State's weekly rulemaking notices on October 27, 2021, and a public hearing was held before the Board on November 18, 2021. The public comment period closed on November 29, 2021. One comment was received in testimony at the public hearing, and comments were received from five parties during the comment period, including a comment from the party who testified at the hearing.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §576-A(4)
Chapter number/title: **Ch. 167** (*New*), Tracking and Reporting Gross and Net Annual Greenhouse Gas Emissions
Filing number: **2021-143**
Effective date: 7/7/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

38 MRS §576-A(4) requires the Department to adopt rules by July 1, 2021, to track and report to the Legislature gross and net annual greenhouse gas emissions in the State. This rule establishes methods for measuring and estimating greenhouse gas emissions from various source categories, and for calculating gross and net annual greenhouse gas emissions for the State as a whole.

Basis statement:

As stated in 38 MRS §576-A, “By July 1, 2021, the Department shall adopt rules to track and report to the Legislature on gross annual greenhouse gas emissions and net annual greenhouse gas emissions.” The proposed ch. 167 establishes methods for the calculation of annual greenhouse gas emissions as required, outlining the methods, data sources, and assumptions used to compile and report these inventories.

These emissions estimates will be used to assess Maine’s progress toward meeting the gross greenhouse gas reductions set out in 38 MRS §576-A(1) and (3). The Department will use these methods to measure progress toward these reductions and toward the goals of the climate action plan described in 38 MRS §577. The net emissions estimate will be used to gauge Maine’s progress toward the 2045 carbon neutrality goal as described in Governor Mills’s executive order dated September 23, 2019.

Fiscal impact of rule:

The rule does not impose a compliance requirement on any entity, and therefore does not directly impose any costs on any regulated entities. The rule establishes methods for the calculation of gross and net annual greenhouse gas emissions in the State for the purpose of assessing attainment of the reduction goals set out at 38 MRS §§ 576-A(1), (2) and (3).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §576-A
Chapter number/title: Ch. 168 (New), Statewide Greenhouse Gas Emissions Regulation
Filing number: 2021-237
Effective date: 11/28/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule requires a reduction from 1990 levels of gross emissions of greenhouse gases from all sources in the State and all sectors of the State economy of 45 percent by the year 2030 and 80 percent by the year 2050 in accordance with 38 MRS §576-A.

Basis statement:

The adopted rule translates the statewide percentage reduction requirements as established in statute into tonnage reductions based on million metric tons of carbon dioxide equivalents (MMTCO_{2e}) for gross greenhouse gas emissions as calculated pursuant to the Department's rule, 06-096 CMR ch. 167. Statutory requirements for greenhouse gas emission reductions were established in 38 MRS §576-A. By January 1, 2030, statewide annual greenhouse gas emissions must be reduced to a level at least 45% below the 1990 gross annual greenhouse gas emissions (or baseline) level, with emissions being reduced at least 80% below the 1990 baseline level by January 1, 2050. These percentages translate to 14.41 MMTCO_{2e} for 2030 and 26.62 MMTCO_{2e} for 2050.

Fiscal impact of rule:

The rule does not impose a compliance requirement on any entity, and therefore does not directly impose any costs on any regulated entities. Any decrease in statewide GHG emissions the Department may require in order to meet the reductions required in this rule will be proposed in subsequent rules and will satisfy the criteria in 38 MRS §§ 576-A(4)(A)-(C).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §§ 341-D(1-B), 1304(1,1-B, 13 & 13-A), 1310-N(9), 1301 *et seq.*
Chapter number/title: Ch. 400, Maine Solid Waste Management Rules
Filing number: 2021-034
Effective date: 2/9/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

On January 13, 2020, the Department received a citizen petition to initiate rulemaking to amend ch. 400, *Maine Solid Waste Management Rules*, to “clarify requirements for Public Benefit Determinations relating to approval of waste facilities, by ensuring that the definition of ‘waste that is generated within the State’ accurately describes the sources of waste materials disposed in the State, and by requiring Public Benefit Determinations to include consideration of the impacts on health and welfare environmental justice and equal protections for communities where waste facilities operate.”

Basis statement:

Note: This statement was adopted by the Department pursuant to the *Maine Administrative Procedure Act*, 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.

Background and Purpose. On January 13, 2020, the Department of Environmental Protection received a Petition to Require Agency Rulemaking, submitted pursuant to 5 MRS §8055 and signed by 257 qualified State of Maine voters, thereby requiring the Department to initiate rulemaking and hold a public hearing. The petition requested specific amendments to 06-096 CMR ch. 400 (*Maine Solid Waste Management Rules: General Provisions*) to: “clarify requirements for Public Benefit Determinations relating to approval of waste facilities, by ensuring that the definition of ‘waste that is generated within the State’ accurately describes the sources of waste materials disposed in the State, and by requiring Public Benefit Determinations to include consideration of the impacts on health and welfare, environmental justice and equal protections for communities where waste facilities operate.”

Rule development. On March 5, 2020, the Board of Environmental Protection voted to post the proposed changes to public hearing pursuant to 5 MRS §8055. Notice of rulemaking was posted on the Department of Environmental Protection website and comments were accepted beginning on April 9, 2020. A public hearing was held on September 17, 2020 via video conference as authorized by PL 2019 ch. 617. The comment period was closed on September 28, 2020. Subsequently, the Department prepared a proposed draft rule for consideration by the Board of Environmental Protection that addressed the regulatory provisions identified in the rulemaking petition and included the statutory definition of “bypass”, a provision of PL 2019 ch. 291.

Fiscal impact of rule:

Due to the nature of the proposal as a citizen petition, it is difficult to determine the potential fiscal impact. At this time, the Department does not anticipate a significant fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §1295
Chapter number/title: Ch. 424 (*Repeal and replace*), Solid Waste Management Rules: Lead Management Regulations
Filing number: 2021-214
Effective date: 10/19/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department repeals and replaces Chapter 424, *Solid Waste Management Rules: Lead Management Regulations*. Chapter 424 contains the State's program requirements for lead remediation and related activities in residential dwelling units and child-occupied facilities.

This rulemaking is necessitated by changes to EPA requirements for how lead hazards are cleared. The Department was notified by EPA in June, 2020, that clearance tolerance for lead hazards would be lowered (40 CFR 745). This resulted in changes to work practice sections of Chapter 424. The Department's Chapter 424 Definitions and Work practice sections were amended to reflect this change. The Department is also adopting changes to the work practice sections, the soil hazards section and the hazard handling sections of 424. In addition, definitions were better aligned with EPA definitions.

Basis statement:

This rulemaking updates the rule through incorporation of revised and new regulations promulgated by U.S. Environmental Protection Agency (USEPA) regarding how lead hazards are cleared. (40 C.F.R. 745) As part of USEPA's efforts to reduce childhood lead exposure, and in coordination with the President's Task Force on Environmental Health Risks and Safety Risks to Children, USEPA reevaluated the 2001 dust-lead clearance levels (DLCL). Effective March 8, 2021, USEPA lowered the DLCL from 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) to 10 $\mu\text{g}/\text{ft}^2$ for floors, and from 250 $\mu\text{g}/\text{ft}^2$ to 100 $\mu\text{g}/\text{ft}^2$ for window sills. Conforming with the changes in the USEPA standards required changes to definitions, work practice, soil hazards and hazard handling sections of Chapter 424. Due to the extensive changes the Department repealed and replaced Chapter 424.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Environmental Protection (DEP)
Umbrella-Unit: 06-096
Statutory authority: 38 MRS §§ 341-D(1-C), 341-H, 1304(1), 1319-O
Chapter number/title: Ch. 850 thru 858, Hazardous Waste Management Rules
Filing number: 2021-202 thru 210
Effective date: 10/6/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rulemaking is to amend the rules as part of an ongoing RCRA authorization plan the Department has established with EPA to incorporate federal regulatory standards and changes as may be necessary to ensure Maine's rules are as stringent as the federal program.

Basis statement:

This rulemaking updates the rules through incorporation of revised and new regulations promulgated by U.S. Environmental Protection Agency (USEPA) under the *Solid Waste Disposal Act*, as amended by the *Resource Conservation and Recovery Act of 1976* (RCRA), as amended, 42 U.S.C.A. 6901, *et seq.* These regulations include 40 C.F.R. 260 to 273, 40 C.F.R. 279, and 40 C.F.R. 761.

This rulemaking amends the rules, consistent with an ongoing RCRA authorization plan established between the Department and USEPA in order for the State of Maine to maintain its RCRA program authorization and its delegated authority to administer the RCRA hazardous waste program in Maine.

These amended rules address or incorporate federal standards and updates for: new hazardous waste listings (ch. 850), waste exclusions (ch. 850), drip pads for wood preservative wastes and waste munitions (chs. 851, 854, 855 and 856), land disposal restrictions (ch. 852), hazardous waste air emissions (chs. 851, 854, 855, and 856), landfills, surface impoundments, and incinerators (chs. 854, 855, and 856), hazardous waste manifests, including EPA's e-Manifest rules (chs. 851 and 857), and import/export of hazardous waste (chs. 851, 853, 857, and 858). These updates to Maine's rules generally incorporate by reference the 2019 version of the Code of Federal Regulations (C.F.R.), which is the most recent published version.

In addition to updating state regulations for consistency with current federal RCRA regulations, the amendments also update regulatory citations throughout the rules to conform with the Department's "Legal Citation Standard Operating Procedure", correcting and/or clarifying certain existing provisions, and incorporating consistent language throughout the chapters.

Fiscal impact of rule:

Regulated entities have been expected to comply with the existing rules and many of the federal rules which are now being incorporated in these updates. As a result, no significant fiscal impacts are expected.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 12452, 12461
Chapter number/title: Ch. 1, Open Water and Fishing Regulations
Filing number: 2021-216
Effective date: 1/1/2022
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.

Basis statement:

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2022 ice fishing and open water seasons. The State Heritage Fish Waters list has also been amended with the removal of one water. 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 rules set specific season dates, bag limits, length limits, tackle restrictions, and other special regulations designed to accomplish fisheries management objectives and are the result of the vetting process of the fisheries division law and rule committee. Biological information, public outreach, angler counts, survey results, and other available data on individual water bodies are reviewed when crafting these rules. These rules will have an effective date of January 1, 2022.

The rule-making packet was advertised to include 246 individual proposals presented in the following "theme" categories: Special Need; State Heritage Fish Waters; Expanded Winter Angling Opportunity; Simplify to General Law; Errors, Conflicts, Confusions; and North Zone Fall Season Consistency. A public hearing was held on July 26, 2021 (minutes attached) with fifteen citizens in attendance. Three members of the public provided testimony on the following: Winter angling concerns from those residing adjacent to Loon Lake; General support for the suite of regulatory proposals, including Abbotts Brook, Round Pond, simplification proposals, and the approach prohibiting use of live fish as bait for the 3 waters proposed to be opened to winter angling in the Rangeley Lake drainage. The Department also received 120 written comments from individuals/organizations (attached) which were acknowledged and forwarded to the Commissioner's Advisory Council as well as appropriate staff for consideration. While some comments focused on individual regulation themes, others commented on some or all of the themes.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 12452, 12461
Chapter number/title: Ch. 1-A, State Heritage Fish Waters
Filing number: 2021-217
Effective date: 1/1/2022
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.

Basis statement:

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2022 ice fishing and open water seasons. The State Heritage Fish Waters list has also been amended with the removal of one water. 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 rules set specific season dates, bag limits, length limits, tackle restrictions, and other special regulations designed to accomplish fisheries management objectives and are the result of the vetting process of the fisheries division law and rule committee. Biological information, public outreach, angler counts, survey results, and other available data on individual water bodies are reviewed when crafting these rules. These rules will have an effective date of January 1, 2022.

The rule-making packet was advertised to include 246 individual proposals presented in the following "theme" categories: Special Need; State Heritage Fish Waters; Expanded Winter Angling Opportunity; Simplify to General Law; Errors, Conflicts, Confusions; and North Zone Fall Season Consistency. A public hearing was held on July 26, 2021 (minutes attached) with fifteen citizens in attendance. Three members of the public provided testimony on the following: Winter angling concerns from those residing adjacent to Loon Lake; General support for the suite of regulatory proposals, including Abbotts Brook, Round Pond, simplification proposals, and the approach prohibiting use of live fish as bait for the 3 waters proposed to be opened to winter angling in the Rangeley Lake drainage. The Department also received 120 written comments from individuals/organizations (attached) which were acknowledged and forwarded to the Commissioner's Advisory Council as well as appropriate staff for consideration. While some comments focused on individual regulation themes, others commented on some or all of the themes.

Fiscal impact of rule:

No fiscal impact anticipated as a result of this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
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
Filing number: 2021-040
Effective date: 2/23/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule change will provide the Department with the ability for strategic recruitment and permitting for wildlife rehabilitators. This change will allow the Department to address factors such as geographic location, unique animal care, and changing levels of sick or injured wildlife in the assessment of permitting prospective wildlife rehabilitators. Addressing Departmental needs will enable the wildlife rehabilitation program to provide consistent and reliable rehabilitative support for distressed wildlife.

Basis statement:

This rule is the result of an extensive 2-year process to update the wildlife rehabilitation program which resulted in an overhaul of Department policy as well as the amendments to ch. 7 rules respective to permitting for wildlife rehabilitators. The rule specifically addresses four different areas of the program. It will allow the strategic selection of wildlife rehabilitators based on geography, need, human population density and the ability of rehabbers to provide unique services or care for specific species. Parameters under which permitted wildlife rehabilitators can bring on volunteers and work with sub-permittees at their facility are also defined. Addressing Departmental needs will enable the wildlife rehabilitation program to provide consistent and reliable rehabilitative support for distressed wildlife. The rule change will give Department staff a clear direction for certification of wildlife rehabilitators, as well as providing prospective applicants the requirements that need to be met to become eligible for permitting as a wildlife rehabilitator.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §13051
Chapter number/title: Ch. 13, Watercraft Rules: 13.07, Motor Size Restrictions on Certain Inland Waters
Filing number: 2021-108
Effective date: 5/26/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department of Inland Fisheries and Wildlife was petitioned to consider watercraft horsepower restrictions on Notched Pond, Gray, Raymond, Cumberland County, and a notice of agency rulemaking was advertised on September 23, 2020 with a comment period deadline of October 26, 2020. A public hearing was held, and comments were submitted and reviewed by the Commissioner's Advisory Council. At the Council's December 16, 2020 meeting, the seven members present voted 5 opposed, 2 in favor of adopting the proposal as presented. The petitioners later made the Department aware of additional information they felt would better advise the Council on activities at the pond regarding safety of persons and property and calls for assistance to the Maine Warden Service, and requested an opportunity to appeal the Council's decision. The Department moved forward with a second notice of agency rulemaking and opportunity for the public to submit additional comment.

Basis statement:

The Department of Inland Fisheries and Wildlife was petitioned to consider watercraft horsepower restrictions on Notched Pond, Gray, Raymond, Cumberland County and a notice of agency rulemaking was advertised on September 23, 2020 with a comment period deadline of October 26, 2020. A public hearing was held, and comments were submitted and reviewed by the Commissioner's Advisory Council. At the Council's December 16, 2020 meeting, the seven members present voted 5 opposed; 2 in favor of adopting the proposal as presented. The petitioner later made the Department aware of additional information they felt would better advise the Council on activities at the pond regarding safety of persons and property and calls for assistance to the Maine Warden Service and requested an opportunity to appeal the Council's decision. The Department agreed and moved forward with a second notice of agency rulemaking to provide opportunity for the public to submit additional comment and for warden service to provide clarification on the number and types of calls for service received for Notched Pond.

After the January 20, 2021 notice was advertised, the Department received three written comments in support of the proposed rule. A resident on the pond commented in favor and described concerns with large boats operating on the relatively small (77 acres) body of water. Representative Jessica Fay also commented in support and expressed concerns with swimmer safety, headway speed violations, etc. The petitioner also submitted comment and included email correspondence with a warden service lieutenant regarding calls for service and violations being reported on the pond. No public hearing was held as this was done when the petitioner's request was advertised initially, and it was agreed that an additional hearing was not necessary.

At the March 23, 2021 Advisory Council meeting, Colonel Dan Scott gave a summary of the calls for service to Notched Pond. Since 2016 there were six (6) different calls for service for operation of motorboats and personal watercraft. One was in 2016 which resulted in a summons for an unregistered boat. The complaint was a headway speed violation and

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

harassment of loons and wildlife. The other five (5) calls for service were in 2020 in the last weeks of May and June. They ranged from jet skis speeding around the pond types of complaints to some dangerous situations with motorboats operating there. Out of the five calls, wardens responded twice directly to the pond and both times issued warnings to the operators.

The Commissioner brought the rule proposal forward to the Advisory Council for their consent at their May 4, 2021 meeting and of the seven (7) members participating, voted unanimously to accept the proposal as presented.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 11855
Chapter number/title: Ch. 16, Hunting: 16.11, Migratory Game Bird Hunting
Filing number: 2021-071
Effective date: 4/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To implement the *Federal Migratory Bird Treaty Act* which establishes the general guidelines within which the States are permitted to regulate the hunting of migratory game birds. This rule will protect migratory game birds from over-harvest by setting these limitations. Adjustments to the migratory bird hunting seasons are based on a collaborative effort to collect and analyze data by the USFWS and state agencies.

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 2021/22 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 with the following two exceptions. First, the USFWS approved an earlier start date for woodcock season starting in 2021 of September 25", Previously, it was October 1 of each year. This will align the start date for woodcock hunting with grouse and other upland species. Second, for both common snipe and rails, the season ends two weeks later than in previous seasons. This change reflects the USFWS decision to allow compensatory days for all webless game bird species for states that do not allow Sunday hunting. In the past, those states had to count Sundays towards their total season length. Additional harvest during these days is not expected to have significant negative impact to these species.

A virtual public hearing was held via Microsoft Teams on February 9, 2021 with 13 citizens attending including members of the Commissioner's Waterfowl Council (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, and all testified in support of moving the coastal zone end date into the second week of January to allow them to hunt later in the season. Three (3) written comments were also received expressing interest in moving the end date of the coastal zone season.

The Commissioner discussed the comments and recommendations with staff and members of the Waterfowl Council. Although those submitting comments had good points, there was not a clear majority of staff or Waterfowl Council members in favor the season date change. The Commissioner recommend staying with the original proposal. Comments were taken into Consideration for next season and Kelsey Sullivan, Bird Group Biologist, would work with the Waterfowl Council in developing next year's season with them.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

The Commissioner moved forward with the original proposal and the Commissioner's Advisory Council met via teleconference (Teams meeting) on March 23, 2021 and of the nine (9) members participating, voted unanimously to accept the proposal as presented.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 11551, 11552
Chapter number/title: Ch. 16, Hunting: 16.08, Moose Hunting (Permit Allocations)
Filing number: 2021-109
Effective date: 5/26/2021
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. This allocation also addresses ongoing concerns about the impacts of winter tick on moose survival and productivity while continuing to provide hunting opportunity across Maine's moose range.

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 2021 season. The Department advertised a proposal on March 31, 2021 with a recommended total of 3,480 permits be issued in order to meet moose harvest objectives. This is an increase of 345 permits from 2020. 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 Department has adopted incremental increases in bull and cow permits across most of Maine's core moose range (WMDS 1-9). 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.

A virtual (Microsoft Teams) public hearing was held on April 20, 2021 (minutes attached) with seven (7) members of the public in attendance. This public hearing was held to solicit oral comments regarding the Department's proposal for moose permit allocations, as well as a separate proposal to institute an "adaptive moose hunt" in WMD 4. Only two (2) citizens testified at the hearing. One offered comment that was not clear which proposal they were testifying on but suggested they were not in favor. The second commented specifically in opposition to the proposal for moose permit allocations and stated the Department had not demonstrated that the hunt was "feasible" as required in statute.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Three written comments were received on the proposal. The comments were acknowledged and forwarded to the Commissioner's Advisory Council and staff for consideration. All three of the comments submitted pertained to moose permit allocations and also the separate proposal for the "adaptive moose hunt". Specific comments on the moose permit proposal, one comment expressed concern over the effects of the moose hunt and tourism for moose viewing, ticks and other ways for management besides shooting the animals, a second comment stated they were opposed to the permit number increase, and the third stated they were opposed to the regular hunt because the Department had not proven it to be feasible and we should consider the impacts of natural predators on moose. In response, the Department states that moose permit numbers are designed to achieve the goals of the 2017-2027 Big Game Management Plan which are focused on population health, rather than managing for specific densities of moose, and IFW has done its due diligence in approaching moose management scientifically and in a proactive manner. Mr. Kantars attached memo and attached listing of moose management outreach support these WMD permit allocations.

The Commissioner recommended no changes to the original proposal. The Advisory Council met virtually via Microsoft Teams on May 4, 2021 and, of the seven (7) members participating, voted unanimously to adopt the proposal as presented.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 11551, 11552
Chapter number/title: Ch. 16, Hunting: 16.08, Moose Hunting (Adaptive Moose Hunt)
Filing number: 2021-110
Effective date: 5/26/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In 2017 the Wildlife Division introduced the concept of establishing an Adaptive Management Unit in a portion of the moose core range (WMD 4) whereby antlerless permits would be increased to a level that would cause a targeted moose population to decline. The intensified moose harvest and population reduction will be evaluated to assess the feasibility of reducing winter tick infestations on moose and subsequently reducing the impact of ticks on overwintering calf mortality and depression of reproduction. The objective of the Adaptive Management Hunt is to increase cow permits within the hunt location designated in WMD 4 which will be divided into two separate areas WMD 4A-North and WMD 4A-South to reduce the moose population over a 5-year period to determine if a lower density moose population will lessen the impacts of winter tick on moose.

Basis statement:

In 2017 the Wildlife Division introduced the concept of establishing an Adaptive Management Unit in a portion of the moose core range (WMD 4) whereby antlerless permits would be increased to a level that would cause a targeted moose population to decline. The intensified moose harvest and population reduction will be evaluated to assess the feasibility of reducing winter tick infestations on moose and subsequently reducing the impact of ticks on overwintering calf mortality and depression of reproduction. The objective of the Adaptive Management Hunt is to increase cow permits within the hunt location designated in WMD 4 which will be divided into two separate areas WMD 4A-North and WMD 4A-South to reduce the moose population over a 5-year period to determine if a lower density moose population will lessen the impacts of winter tick on moose. IFW identified multiple actions that needed to be addressed prior to proposing this management action. This included collection of data within the proposed unit in support of plan goals and objectives; outreach and education which included consultation with wildlife division staff, warden service, regional guides and outfitters, leaders in the hunting and outdoor recreation field and multiple presentations to organizations and universities; and development of a detailed plan to implement the adaptive unit hunt.

The drawings for resident, nonresident, and adaptive management zone moose hunting permits will be held separately, Therefore, only if an applicant does not receive a traditional moose hunting permit will they be put into the adaptive unit lottery. If an applicant receives an adaptive unit permit, they will lose their bonus points. For each adaptive hunt week, hunters will be assigned a north or south area as well as a week. All cow moose hunters will be required to attend a prehunt briefing and will be provided with adaptive hunt program details, expectations, maps, ovary removal instruction, bull/cow/calf differentiation and identification, in addition to proper care of meat. Hunters will be required to stop, register moose, and provide biological data at designated field check stations within the adaptive hunt area at key entry/egress points. Biologists will continue to monitor the moose population with aerial surveys and monitoring calves with GPS collars. The Adaptive Hunt will be reassessed annually.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

A virtual (Microsoft Teams) public hearing was held on April 20, 2021 (minutes attached) with seven (7) members of the public in attendance. This public hearing was held to solicit oral comments regarding the Department's proposal for moose permit allocations, as well as the adaptive moose hunt proposal. Only two (2) citizens testified at the hearing. One offered comment that was not clear which proposal they were testifying on but suggested they were not in favor. The second commented in opposition to the proposal. Twelve written comments were received. Three commented jointly on the moose permit allocations proposal as well as the adaptive hunt and were not in favor, six commented simply to stop the moose slaughter but gave no justifications for their request, two comments were not in agreement with the proposed rule expressing concern that calves would be abandoned by having additional cows harvested, it was cruel, and the Department should reconsider as they felt the moose population was declining. The final comment stated the proposed rule did not make sense to them and asked for clarification. Department responses to questions are attached in addition to Mr. Kantars briefing memo and a listing of moose management outreach which supports the implementation of the Department's adaptive moose hunt.

The Commissioner recommended no changes to the original proposal. The Advisory Council met virtually via Microsoft Teams on May 4, 2021 and, of the seven (7) members participating, voted unanimously to adopt the proposal as presented.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 11152, 11401
Chapter number/title: Ch. 16, Hunting: 16.07, Deer Hunting (Any-Deer Permit Allocations)
Filing number: 2021-145
Effective date: 7/18/2021
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 we are also issuing 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. The Department's Deer Management System, which was developed as part of our long-term species planning process, is a comprehensive document which includes an extensive scientific assessment of deer populations and management strategies. Our management approaches are also reviewed and discussed regularly with other deer biologists across the northeastern U.S. and eastern Canada. Currently, we collect and analyze several types of data to develop informed recommendations on any-deer permit numbers. These data sources include measures of winter severity, hunter effort, yearling frequencies, yearling antler beam diameters, lactation status of does, harvest density, and ages of harvested deer.

For 2021, the Department will issue a total of 153,910 ADP across 26 WMDs, including 675 bonus antlerless permits in two deer management subunits (25a and 26a), to meet a doe harvest objective of 15,187 does, which is 15.6% more than 2020. The increase in permits is 39.9% from 2020 (109,990 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, and do not have prominent areas with high levels of deer-human conflict. In WMDs 2, 3, 9-11, 19, 27 and 28, we are proposing to issue a small number of ADPs. 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 offer additional harvest opportunities in these areas. WMDs 6-8, 12-14, and 18 will have increased allocations which is largely a product of lower estimated winter mortality rates leaving some additional room for doe removal. Large increases in permits are recommended for WMDs 15-17, 20-26, and 29. These WMDs represent the most productive deer range in Maine. In addition to being subject to mild winter conditions, it is increasingly challenging to achieve desired levels of doe removal in these districts. Doe harvest in these WMDs was ~39% below objective in 2020 and on average >20% below objective over the last decade. Bonus antlerless deer permits in Subunit 25a and 26a

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

will allow for additional opportunity to harvest deer in areas experiencing elevated levels of Lyme disease, deer-vehicle collisions and public complaints about deer. After navigating several years with inflating permit numbers and relatively little return in terms of increased doe harvest, the Department will be convening intradepartmental and stakeholder groups to discuss new methods for allocating antlerless harvest opportunity in the future.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
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: 2021-157
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

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 other areas near or around Augusta, Bangor, Bucksport, Camden, Castine, Eliot, Lewiston, Portland, and Waterville. Through the years, small additions and corrections to existing expanded archery boundaries have been made. Additionally, some road name and landmark references are no longer correct or are inconsistent with mapped boundaries. This revision will make language consistent across areas, address examples of incorrect road and landmark names, and bring boundary description language in line with mapped boundaries currently presented on the MDIFW website.

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 other areas near or around Augusta, Bangor, Bucksport, Camden, Castine, Eliot, Lewiston, Portland, and Waterville. Through the years, small additions and corrections to existing expanded archery boundaries have been made. Additionally, some road name and landmark references are no longer correct or are inconsistent with mapped boundaries. This revision will make language consistent across areas, address examples of incorrect road and landmark names, and bring boundary description language in line with mapped boundaries currently presented on the MDIFW website. Language revisions were referenced with the Wildlife Management District boundary descriptions and the expanded archery descriptions brought more in line with those in terms of language and style. Regional biologists and game wardens worked together to review for potential land additions and referred to mapped areas available on the MDIFW website and in ArcGIS shapefiles to determine whether boundary texts were consistent with mapped areas.

This update is primarily addressing language and stylistic inconsistencies in the expanded archery boundary descriptions that have resulted from years of multiple authorship and revisions. The Department has also further amended the following areas: Combined the Brewer and Bangor expanded archery areas, which were previously adjacent but presented as two separate maps, GIS polygons, and boundary texts. Added the area impacting Owl's Head and South Thomaston, this is an area where hunting access is somewhat limited due to the area being a peninsula and characterized by typical coastal housing development and is covered by a town-level firearms discharge ordinance restricting gun deer hunting to shotgun only. As is common with airports, there is some history of deer issues at the regional airport, which will be covered by this addition. Also included is a clarification that a few islands that are part of WMD 24 should be counted within the WMD 24 expanded archery area rather than

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

the WMD 29 expanded archery area, and revised language for the WMD 24 expanded archery area for consistency with the online map. This adds a small triangle of land approximately 65 acres in size in the town of Ogunquit near Bourne Lane and Shore Road.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §10104
Chapter number/title: Ch. 16, Hunting: 16.13, Protocol for Big Game Registration Station and Furbearer Registration Agents
Filing number: 2021-158
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department regularly adjusts furbearer hunting and trapping regulations in response to emerging scientific information, changes in hunter and trapper participation, and biological data. These minor changes are to clarify and simplify existing rules.

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. These minor changes are to clarify and simplify existing rules. The Department is removing the 25¢ tagging fee when the Department tags fur. This change still allows fur tagging agents to continue charging 25¢ for each furbearer pelt that is tagged. Also, as temporary transportation tags for marten and fisher have not been required since 2020, these changes will bring remaining sections of Chapter 16 and 17 rules up to date.

Since 1982, the fee charged to tag certain furbearer species has been 25¢ for each pelt. Fur tagging agents are established by the Commissioner on the basis of need and for added support to department staff. In recent years, 60% of the annual fur has been tagged by department biologists, wardens and administrative staff. The elimination of the fur tagging fee for staff will remove the burden of collecting money from hunters and trappers, but could result in an increase to the number of furs tagged by the department. Based on recent trends in the total number of furs tagged, however, some increases would still be manageable. Fur tagging agents provide an important service and the proposed change would still enable agents to charge 25¢ for each pelt. Transportation tags are no longer required for marten and fisher. The web-based registration system is used for enforcement purposes to ensure that trappers are following bag limits, without the additional burden of transportation tags.

Fiscal impact of rule:

Slight negative fiscal impact to the Department anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 12251
Chapter number/title: Ch. 17, Trapping
Filing number: 2021-159
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department regularly adjusts furbearer hunting and trapping regulations in response to emerging scientific information, changes in hunter and trapper participation, and biological data. As in previous years, the Department has made changes to open or close certain areas to beaver trapping in response to requests from landowners. Several minor changes to clarify or simplify existing rules have also been made including removing the special fisher trapping season and removing the tagging fee when Department staff tag fur. The web-based fur registration system, biological data, trapper survey, and camera study allow the Department to monitor the harvest and the status of furbearer populations across the state.

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. As in previous years, the Department has made changes to open or close certain areas to beaver trapping in response to requests from landowners. Several minor changes to clarify or simplify existing rules have also been made including removing the special fisher trapping season and removing the tagging fee when Department staff tag fur.

Specific updates to the rule are as follows: **Fisher Trapping Season:** Since 2013, the fisher trapping season has been based on Wildlife Management District. Currently, fisher can be trapped for approximately 9 weeks during the general trapping season in northern areas (WMD 1-11 & 14) but is restricted to approximately 7 weeks in southern areas (WMD's 12, 13 & 15-29). The rule eliminates the special fisher trapping season and allows fisher trapping during the general trapping season statewide. Fisher are just as common or more common than marten in some of the northern areas. Information gathered from staff, trapper surveys, camera study, and public reports suggest that fisher are abundant in much of the state. The Department believes that aligning the fisher trapping season with the general trapping season will simplify regulations and will not negatively affect the fisher population.

Beaver Season and Closures: Beaver season dates are subject to change annually, but the start dates are generally based on the general trapping season and deer firearm season. The rule change formally assigns how beaver dates are selected to streamline the process. The list of beaver trapping closures has been updated to accommodate the wishes of private landowners on whose land the trapping activity would occur. Townships or portions thereof are opened and closed on an individual basis to manage local beaver populations within the general season framework.

Fur Tagging Fee: Since 1982, the fee charged to tag certain furbearer species has been 25¢ for each pelt. Fur tagging agents are established by the Commissioner on the basis of need and for added support to department staff. In recent years, 60% of the annual fur has been tagged by department biologists, wardens and administrative staff. The elimination of the fur tagging fee for staff will remove the burden of collecting money from hunters and trappers, but could result in an increase to the number of furs tagged by the department. Based on recent

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

trends in the total number of furs tagged, however, some increases would still be manageable. Fur tagging agents provide an important service and the proposed change would still enable agents to charge 25¢ for each pelt.

Transportation Tags: Transportation tags are no longer required for marten and fisher. The web-based registration system is used for enforcement purposes to ensure that trappers are following bag limits, without the additional burden of transportation tags.

Fiscal impact of rule:

Slight negative impact to the Department anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Inland Fisheries and Wildlife (IFW)
Umbrella-Unit: 09-137
Statutory authority: 12 MRS §§ 10104, 12851
Chapter number/title: Ch. 24, Licensed Guides (Recreational Classification)
Filing number: 2021-072
Effective date: 4/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule allows those testing for hunting or fishing classifications to also test at the same time for a recreational classification by paying the \$100 exam fee for each classification. This began on January 1, 2021 and required IFW to provide 2 new types of exams, one that incorporates both the hunting and recreational classifications and another that incorporates the fishing and recreational classifications. It also allows someone who is currently licensed as a hunting and/or fishing guide to pay the \$100 exam fee, take a written exam only, and acquire their recreational classification as well. They will not have to take the oral exam again as they would have already been questioned during the oral board exam on recreational type questions when obtaining their hunting or fishing guide license.

Basis statement:

In 2020, the ch. 24 *Licensed Guide* rules were amended to include updates to the application and testing process to allow anyone testing for hunting or fishing classifications to also have the ability to test for a recreational classification by paying the \$100 exam fee for each classification beginning January 1, 2021. After rules were adopted, it became clear that additional language was necessary under the section for renewal applicants to define the recreational classification upgrade for those renewing their hunting or fishing guide license. These rules have been adopted to accomplish that clarification.

Someone who is currently licensed as a hunting and/or fishing guide will pay the \$100 exam fee, take a written exam only, and acquire their recreational classification as well. They will not be required to take the oral exam again as they would have already been questioned during the oral board exam on recreational type questions when obtaining their hunting or fishing guide license. The recreational classification on their license will expire at the same time as the other classifications the guide currently holds. If a guide requests to take the recreational test and this doesn't occur at the time of renewal, they will only be required to submit to the background check upon renewal of the other classification(s) they currently hold. These changes have been reviewed and discussed with IFW staff who process applications, renewal applications and oversee the examination process; Members of the Guide Advisory Board including the game warden chair; and input was received from organizations that represent guides statewide.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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), 3173; PL 2017 ch. 407
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 17**, Community Support Services
Filing number: **2021-130**
Effective date: 7/1/2021
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 the following changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual*, ch. II section 17, Community Support Services.

This adopted rule enhances safeguards and protections of client rights under the *Bates, et al. v. Commissioner, DHHS, et al*, consent decree. The rule addresses referrals to and terminations from Community Integration Services and Assertive Community Treatment (ACT) Services for members with Serious and Persistent Mental Illness. Prior to terminating a member’s services, providers must receive written approval from the Office of Behavioral Health (OBH); must issue a 30-day advanced written termination notice to the member, with an exception for cases involving imminent harm; and must assist the member in obtaining clinically necessary services from another provider prior to termination. In addition, providers must accept Department referrals for services within seven (7) calendar days and may only decline referrals with written approval from OBH.

The adopted rule also removed the “temporary transition period” from the timeliness and duration of care provisions that were added in a prior rulemaking pursuant to Resolves 2015 ch. 82.

This rule additionally removed the definition and requirement to complete the Adult Needs and Strengths Assessment (ANSA). The Department has determined the ANSA is no longer a viable option for assessment and treatment, and this assessment is not being used in practice.

The Department also updated formatting, citations, and references where necessary, including changing “Office of Substance Abuse and Mental Health Services” to “Office of Behavioral Health” and removed potentially stigmatizing language based on recommendations from the Maine’s opioid task force and legislation passed in 2018 to minimize stigma (PL 2017 ch. 407).

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 amended the term “Department referrals” to “referrals” under 17.08-5 D in the adopted rule.

Fiscal impact of rule:

No fiscal impact expected for this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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. 616 (emergency, effective March 20, 2020); 42 CFR §441.301; Resolves 2019 ch. 104

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II and III Section 19**, Home and Community Benefits for the Elderly and Adults with Disabilities

Filing number: **2021-090**

Effective date: 5/2/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

This adopted rule aligns and complies with 42 CFR441.301(c), the federal Home and Community Based Settings (HCBS) rule (the “Settings Rule”). Additionally, the changes update certain Personal Support Services (PSS) and other reimbursement rates pursuant to the State supplemental budget, PL 2019 ch. 616. Pursuant to Resolves 2019 ch. 104, the changes permit spouses to be reimbursed as Personal Support Specialists for eligible members that need Extraordinary Care. The rule clarifies roles and responsibilities of the Service Coordination Agency (SCA), the Fiscal Intermediary (FI), and the Assessing Services Agency (ASA) Assessor. It adds or clarifies definitions for Extraordinary Care, and the Person-Centered Planning Process.

The Settings Rule specifies that service planning for HCBS waiver members must be developed through a Person-Centered Planning (PCP) process that addresses health and long-term services and support needs in a manner that reflects individual preferences and goals. Moreover, the rule requires that this process be member-directed. This adopted rule adds language to further define the PCP process as it relates to recipients of Section 19 services. Separately, the Department is developing a Global HCBS Settings Rule that will make changes to all the HCBS MaineCare rules to implement in more detail the requirements of the Settings Rule.

Additionally, the adoption defines Extraordinary Care to support comprehensive planning and service delivery processes and more readily meet members’ needs.

Furthermore, the rule updates Section 19 rates to comply with 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 the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021. Many of the changes are effective retroactive to April 1, 2020. In light of this increased reimbursement for providers, to protect members, the program cap in Section 19.06(A) has been increased to \$6,565, effective retroactive to April 1, 2020.

The adopted rule also transitions reimbursement for the SCA, which provides care coordination services, from fee for service to a per member per month reimbursement; this shall take effect prospectively. Due to this change in reimbursement, the Department seeks to remove the limits on care coordination in Section 19.06; members may receive care coordination services as appropriate to their medical needs, without limits to the amount.

Additionally, the adopted rule clarifies roles and responsibilities of the SCA, the Fiscal Intermediary (FI), and the ASA Assessor. The rule outlines the responsibilities of the SCA to

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

promote the Person-Centered Planning process and clarifies the authority of the SCA to reduce, suspend, and deny members' services. Additionally, the adopted rule outlines the qualifications and role of the ASA Assessor. Further, the rule identifies and outlines the data and reports required of the SCA and the FI to ensure collection and tracking of quality data in support of the transition to Per Member Per Month reimbursement for care coordination.

As reflected in the adopted rules, certain changes in the rule have a retroactive effective date of either April 1, 2020, or July 1, 2020, while the remainder are effective with this final adoption of the rule pursuant to 5 MRS §8052(6). Further, the Department has received final approval from the Centers for Medicare and Medicaid Services (CMS) on amendments to the Section 1915(c) waiver to implement same.

Finally, as a result of public comments and further review by the Department and the Office of the Attorney General, there were additional minor changes to the adopted rule language for purposes of clarity. Importantly, the Department increased the reimbursement for Respite Services in chapter III from \$163.49 to \$219.76, in order to be consistent with the waiver amendment approved by CMS. The Summary of Public Comments and Department Responses document identifies more specifically all changes that were made to the final rule.

Fiscal impact of rule:

The Department does not anticipate any fiscal impact as the changes proposed are cost neutral.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 42(8); 5 MRS §8054; PL 2019 ch. 616 part A §A-7

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 21**, Allowances for Home and Community Benefits for Adults with Intellectual Disabilities or Autism Spectrum Disorder

Filing number: **2021-069**

Effective date: 4/7/2021

Type of rule: Major Substantive

Emergency rule: Yes

Principal reason or purpose for rule:

The emergency adopted rule implements rate increases in accordance with PL 2019 ch. 616 part A §A-7, for four services, Supported Employment Services, Career Planning Services, Employment Specialist Services and Home Support-quarter Hour Services.

These rate increases have a retroactive application date of January 1, 2021. The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8). The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety, or general welfare. The Department's findings of an emergency are as follows: Delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members; and the rate increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054(3), this emergency major substantive rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

Basis statement:

The Department is adopting this emergency major substantive rule in accordance with PL 2019 ch. 616 part A §A-7, *An Act Making Supplemental 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, 2020 and June 30, 2021*. The Act provides funding to increase reimbursement rates for specific procedure codes in ch. III §21, "Allowances for Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder".

The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety, or general welfare. The Department's findings of an emergency are as follows: Delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members; and the increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

The emergency major substantive rule increases the rates effective January 1, 2021 for four (4) services: Supported Employment Services, Career Planning Services, Employment Specialist Services, and Home Support-Quarter Hour Services. The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the Department

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

has sought CMS approval for such changes, and where the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8).

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054 (3), this emergency major substantive rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

Fiscal impact of rule:

The Department anticipates that this rulemaking will cost approximately \$1,653,993 in SFY 2021, which includes \$598,745 in state dollars and \$1,055,248 in federal dollars.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 42(8), 3173; 5 MRS §8054; PL 2019 ch. 616 part A §A-7
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 29**, Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder
Filing number: **2021-070**
Effective date: 4/7/2021
Type of rule: Major Substantive
Emergency rule: Yes

Principal reason or purpose for rule:

In accordance with PL 2019 ch. 616 §A-7, this emergency major substantive rule increases the rates with a retroactive application date of January 1, 2021 for four (4) services including: Supported Employment Services, Career Planning Services, Employment Specialist Services, and Home Support-Quarter Hour Services.

The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the Department has determined that the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8). Here, the rule change is a positive change for the providers.

The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety or general welfare. The Department's findings of an emergency are as follows: delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members, and the increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054(3), this emergency major substantive rule may be effective for up 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

Basis statement:

The Department is adopting this emergency major substantive rule in accordance with PL 2019 ch. 616 part A §A-7, *An Act Making Supplemental 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, 2020 and June 30, 2021*. The Act provides funding to increase reimbursement rates for specific procedure codes in ch. III §29, "Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder".

The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety or general welfare. The Department's findings of an emergency are as follows: delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members, and the increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

The emergency major substantive rule increases the rates with a retroactive application date of January 1, 2021 for four (4) services including: Supported Employment Services,

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Career Planning Services, Employment Specialist Services, and Home Support-Quarter Hour Services. The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the Department has determined that the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8). Here, the rule change is a positive change for the providers.

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054(3), this emergency major substantive rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

Fiscal impact of rule:

The Department anticipates that this rulemaking will cost approximately \$886,584 in SFY 2021, which includes \$267,748 in state dollars and \$565,641 in federal dollars.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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), 3173; PL 2017 ch. 407
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 92**, Behavioral Health Home Services
Filing number: **2021-131**
Effective date: 7/1/2021
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 the following changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual*, ch. II section 92, Behavioral Health Home Services.

This adopted rule enhances safeguards and protections of client rights under the *Bates, et al. v. Commissioner, DHHS, et al*, consent decree. The rule addresses referrals to and terminations from Behavioral Health Home Services for members with Serious and Persistent Mental Illness. Prior to terminating a member's services, providers must receive written approval from the Office of Behavioral Health (OBH); must issue a 30-day advanced written termination notice to the member, with an exception for cases involving imminent harm; and must assist the member in obtaining clinically necessary services from another provider prior to termination. In addition, providers must accept Department referrals within seven (7) calendar days and may only decline referrals with written approval from OBH.

Additionally, in furtherance of consent decree principles, this rule added language for timeliness standards for Adults with Serious and Persistent Mental Illness, consistent with those in Section 17 Community Support Services for this population. These standards require that providers must conduct an initial face-to-face intake or initial assessment visit within seven (7) calendar days of the date of referral. This rule also gives members the option to request to “hold for service” if providers are unable to meet the seven (7) calendar day face-to-face requirement of new referrals but the member would still like to wait until that provider can accept their referral. Members may elect to hold for service only after an agency has adequately informed the member of their other area service options.

The Department also updated formatting, citations, and references where necessary, including changing “Office of Substance Abuse and Mental Health Services” to “Office of Behavioral Health” and removing potentially stigmatizing language based on recommendations from Maine’s opioid task force and legislation passed in 2018 to minimize stigma (PL 2017 ch. 407).

Considering public comment, in addition to the changes to the final rule described above, the Department made the following change to the final rule:

- The Department has amended the term “Department referrals” to “referrals” under 92.02-3 D in the adopted rule.

Fiscal impact of rule:

No fiscal impact expected for this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of MaineCare Services - Division of Policy**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS, §§ 42, 3173
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II, Section 97**, Private Non-Medical Institution Services
Filing number: **2021-129**
Effective date: 7/1/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is proposed in order to provide clarity and consistency in processes and record-keeping across MaineCare policies and enhance safeguards and protections of client rights under the *Bates, et al. v. Commissioner, DHHS, et al.* consent decree.

Basis statement:

The Department of Health and Human Services (the “Department”) adopts these rule changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual*, Chapter II, Section 97 to enhance safeguards and protections of client rights under the *Bates, et al. v. Commissioner, DHHS, et al.* consent decree by creating new provisions addressing terminations from and referrals to Appendix E Private Non-Medical Institutions.

First, under Section 97.07-10, Termination, prior to terminating a member’s services, providers must receive written approval from the Office of Behavioral Health (OBH); must issue a 30-day advanced written termination notice to the member, with an exception for cases involving imminent harm; and must assist the member in obtaining clinically necessary services from another provider prior to termination. This adoption will protect members from inappropriate discharge from these services.

Second, under Section 97.07-11, Referrals, providers must acknowledge receipt of Department referrals within three business days for members eligible for Appendix E services and must accept or request permission to decline referrals in accordance with a Department-defined process within five business days of receipt of referral. Providers can only decline a referral with written approval from OBH, otherwise they must admit members within thirty days of receipt of the referral. This adopted language will assist members in receiving timely access to Appendix E services.

This adopted rule also provides clarity and consistency in record-keeping processes to align with other MaineCare policies. Specifically, the adopted rule changes the frequency requirement for entering and signing progress notes from a monthly to a daily expectation within Appendix E facilities. Adoption of this rule will improve accuracy and quality within member records.

In addition, as a result of further review by the Department and the Office of the Attorney General following the comment period, this adopted rule updates offensive terminology throughout the rule. This includes replacing references to “substance abuse” with “substance use” per Public Law 2017 ch. 407 part B sec. B-1.

Finally, this adopted rule include non-substantive technical, grammatical, and other minor changes, including updating the outdated references to current Department office names. The Summary of Public Comments and Department Responses document identifies changes that were made to the final rule following the comment period.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

This rulemaking will take effect on July 1, 2021 to coincide with the anticipated adoption of changes to the MaineCare Benefits Manual, Section 17 and Section 92, which similarly enhance and safeguard client rights under the Bates consent decree.

Fiscal impact of rule:

The Department does not anticipate any fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

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

Umbrella-Unit: **10-144**

Statutory authority: 22 MRS §§ 42, 3173; 22 MRS §8110; 42 USC §671(20); PL 2019, ch. 407; *The Family First Prevention Services Act*, Public Law 115-123 (as part of Division E in the *Bipartisan Budget Act of 2018* (HR 1892) (eff. Feb. 9, 2018) (as amended through PL 116-260, enacted December 27, 2020)

Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. II Section 97**, Private Non-Medical Institution Services

Filing number: **2021-223**

Effective date: 11/1/2021

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 the following changes to 10-144 CMR ch. 101, *MaineCare Benefits Manual* (MBM), chapter II section 97, “Private Non-Medical Institution Services”.

The Department adopts these rule changes to align section 97 requirements with the *Family First Prevention Services Act* (FFPSA), which establishes standards for children’s residential treatment programs in order to improve quality and oversight of services. The adopted changes are specific to Private Non-Medical Institution (PNMI) Appendix D Facilities, and are reflected in the definitions, eligibility for care, covered services and policies and procedures sections of this rule. Additionally, as directed under the FFPSA, the adopted rule includes requirements for Appendix D providers to meet Qualified Residential Treatment Programs (QRTM) standards, which include obtaining and maintaining specified licensing and accreditation standards, as well as delivering trauma-informed treatment.

For compliance with the FFPSA related to improving quality and oversight of services, the Department amended Appendix D language referring to Child Care Facility Services and Models of Child Care Facilities, to be replaced with the term, “Children’s Residential Care Facilities” (CRCFs). The adopted rule distinguishes models of residential care that address specific treatment needs of different member populations. CRCF models include Intellectual Disabilities/Developmental Disabilities (ID/DD-CRCF), Mental Health (MH-CRCF), Crisis Stabilization (CS-CRCF), and Child and Adolescent Therapeutic Foster Care. This rule further adopts amended language referring to “Intensive Temporary Residential Treatment Services” by replacing this with the term “Temporary High Intensity Services” and including language clarifying the covered services while also establishing the requirement for a Prior Authorization process.

The rule also adopts the use of Department-approved, age appropriate Level of Care/Service Intensity tools, which is required as a component of eligibility determination for ID/DD, MH, and CS CRCFs. The Level of Care/Service Intensity tools replace outdated instruments, to include the Child and Adolescent Functional Assessment Scale (CAFAS), the Children’s Global Assessment Scale (C-GAS), the Global Assessment Functioning (GAF), and the Children’s Habilitation Assessment Tool (CHAT); and streamline the process by utilizing one tool that is evidence based and clinically appropriate by age, to include the Early Childhood Service Intensity Instrument (ECSII), the Child and Adolescent Level of

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Care/Service Intensity Utilization System (CALOCUS-CASII) and the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS).

Additionally, this rule adopts various new covered services, including Aftercare Support Services, which are designed to promote a continuation of treatment gains with the goal of supporting the child in their home and community environment, and must be provided to youth for at least six (6) months post discharge from MH and ID/DD-CRCFs. The Department is additionally requiring a new position, a Family Transition Specialist (FTS), to aid in the delivery of aftercare and transition services for the youth and family.

To further align with the FFPSA to achieve improved quality and oversight of services, this adopted rule clarifies Appendix D requirements for the CRCF assessment, Individual Treatment Plan, progress notes, and discharge summary as well as adding various new defined terms.

The Department additionally adopted language that requires providers operating under Appendix D and Adolescent Residential Rehabilitation Services operating under Appendix B, to demonstrate utilization of the Federal Substance Abuse and Mental Health Services Administration's (SAMHSA) System of Care Principles. The rule requires delivery of trauma-informed care through the completion of a Trauma-Informed Agency Assessment, staff training and incorporation of these principles into program policy and procedures.

The Department also adopts specific requirements regarding background checks for providers operating under Appendix D and Adolescent Residential Rehabilitation Services providers operating under Appendix B. Children's residential facility providers must follow the requirements set forth in 22 MRS §8110 and 42 USC §671(20). Behavioral Health Services providers must conduct background checks every five (5) years and fingerprinting. The adopted rule requires completed background checks for all staff and all adults providing services to a member within ninety (90) days of the effective date of this rule and that all background checks are to be completed every five (5) years thereafter.

The Department further adopts, under Appendix D, the addition of Behavioral Health Professionals (BHP) and Family Transitional Specialists (FTS) as Other Qualified Residential Treatment Facility Staff as well as including Board Certified Behavior Analyst services, Registered Behavior Technician services and Board Certified Assistant Behavior Analyst services. The Department is requiring confirmation that prospective BHPs are not annotated in the registry (per 10-144 CMR ch. 128, Certified Nursing Assistant and Direct Care Worker Registry Rule) prior to qualifying as a staff member under this rule.

In addition to the above adopted changes, the Department adopted language increasing access to necessary services by removing the 'single admission' limitation and increasing the number of allowable covered days for Halfway House and Extended Care Services under PNMI Appendix B of this rule. The Department also adopted edits to language to accurately reflect current practices as well as updates to formatting, citations, and references where necessary, including changes to address potentially stigmatizing language based on recommendations from Maine's opioid task force and legislation passed in 2018 to minimize stigma (PL 2017, ch. 407).

The Department shall seek CMS approval for the new covered services and provider requirements, as specifically noted in various adopted rule changes.

In addition, the Department intends to implement corresponding changes as needed in the MBM, chapter III section 97, to ensure adequate reimbursement for providers to deliver all new covered services and meet QRTP standards and other chapter II-related updates. For example, chapter III appendix D sec. 2400.1 must be updated in order to ensure that rates cover the costs of Board Certified Behavior Analysts and the other new types of direct service staff. The chapter III section 97 rule is major substantive, and the upcoming changes shall be

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

filed as an emergency rule no later than Nov. 1, 2021, so that they will be effective at the same time the changes in chapter II section 97 are finally adopted.

Considering public comment and legal advice from the Office of Attorney General, the Department made various changes to the final rule from what was proposed.

Changing requirements for Appendix D providers, service delivery, and provisions of treatment to provide more specificity and allow for more flexibility for providers, include:

- Updating language related to accreditation under 97.07-2(F)(h)(2) to allow for accreditation to be completed within 12 months.
- Extending the Prior Authorization for Temporary High Intensity Services (97.02-5(C)) from a seven (7) day authorization to “up to thirty (30) days.”
- Including language under 97.08-2.G(6) to address exemptions related to Aftercare Support Services.
- Adding language under 97.06-3 (Non-Reimbursable Days), to include, “Members receiving services in an emergency department are exempt from this provision when emergency treatment is sought at 8:00pm or later and the member returns to the facility the following day.”
- Removing references that limit telehealth services and reducing the frequency of required in-person contact for Aftercare Support Services.
- Clarifying that both ITPs and FBAs are reviewed minimally every thirty (30) days.
- Updating language, under 97.08-2(C)(2), to include more flexibilities for behavioral and/or rehabilitative therapies.
- Clarifying language related to family involvement in treatment under Appendix D CRCFs to include more involvement by the Department’s Office of Child and Family Services (OCFS) and specific requirements.

Changing requirements for Appendix D CRCF staff include:

- Allowing for, under 97.07-2(H)(2), a bachelor’s degree in an unrelated field with at least one (1) year of related professional experience, extending time for staff to obtain BHP certification for new hires to six (6) months from the date of hire and staff currently employed to one (1) year from the effective date of the rule.
- Updating CRCF staff supervision requirements to include a minimum of three (3) hours per month includes one (1) hour of individual and one (1) hour of clinical supervision conducted by a Clinician as defined in 97.01-4.

All changes are specifically listed in the separate document, Summary of Comments and Responses and List of Changes to the Final Rule.

Fiscal impact of rule:

The Department intends to address the fiscal impact of all ch. II -related updates and related budget initiatives identified in PL 2021 ch. 398 with corresponding changes in the MBM, ch. III section 97.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 8073...
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. III Section 97**, Private Non-Medical Institution Services
Filing number: **2021-224**
Effective date: 11/1/2021
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 the following emergency major substantive rule changes in 10-144 CMR ch. 101, *MaineCare Benefits Manual*, chapter III section 97, “Private Non-Medical Institution Services”, including chapter III (the “Main Rule”) and appendices B (Substance Abuse Treatment Facilities) and D (Child Care Facilities).

In chapter III, the Department is updating the main rule and corresponding appendices for appendix B and appendix D to support the final adopted changes in chapter II section 97, with the rules intended to be filed simultaneously. The chapter II rule changes implement various new requirements on appendix D providers per the *Family First Prevention Services Act* (FFPSA), and also adds new covered MaineCare services. Chapter II also imposes new requirements on Appendix B providers and broadens those covered services.

In recognition of these new requirements, the Department implements these emergency major substantive reimbursement rate increases. The new rates were authorized by the Legislature pursuant to PL 2021 ch. 29, *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, 2022 and June 30, 2023* (the “Budget”) and PL 2021 ch. 398, *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, 2021, June 30, 2022 and June 30, 2023* (the “Supplemental Budget”). The rates are also consistent with independent rate studies completed for Appendix B and Appendix D services.

Section GGGG-1 of the Supplemental Budget provides the Department with authority to enact these changes on an emergency basis, without the need to make findings in support of an emergency per 5 MRS §8054. Emergency major substantive rules are effective for up to 12 months or until the Legislature has completed review of the provisionally adopted major substantive rule. 5 MRS §8073. The Department shall seek approval from the Centers for Medicare and Medicaid Services (CMS) for the increased appendix B and appendix D rates. The Department shall file the corresponding chapter III section 97 proposed major substantive rules in order to begin the process for implementing these changes permanently.

In addition to the above, the Main Rule and relevant Appendices has been updated to reflect changes to certain services in order to gain consistency with chapter II, including updating “Crisis Residential” services to “Crisis Stabilization” services, “Treatment Foster Care” to “Therapeutic Foster Care,” and “Substance Abuse treatment” to “Substance Use treatment.”

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Appendix B implements rate updates from an independent rate study, recommending substantial increases, consistent with appropriations approved by the Budget and the Supplemental Budget. Additional changes are required to ensure that the terminology in appendix B is consistent with what is utilized in the finally adopted chapter II rule; for example, “Detoxification” programs are changed to “Medically Supervised Withdrawal Services.” This rulemaking creates two tiers of reimbursement, one tier incorporating all medical personnel, and another tier as an exception rate for low nursing staff, given substantial workforce challenges. Lastly, service components of the rate in 2400.1 were updated to clarify social workers as licensed clinical social workers and to add licensed marriage and family therapists, to align with changes adopted in chapter II.

Appendix D updates the name from “Childcare Facilities” to “Children’s Residential Care Facilities” in order to align with changes adopted in chapter II. In section 2400.1, board certified behavioral analyst services, board certified assistant behavior analyst services, and registered behavior technician services were added to align with changes in chapter II. Following the independent rate study, rate recommendations are incorporated, including consolidating Mental Health Level I and Level II services into a single Mental Health level of reimbursement, and consolidating Intellectual Disabilities and Autism Spectrum Disorder Levels I and II into a single Intellectual Disabilities/Developmental Disabilities residential treatment rate. Due to the rate changes and finally adopted changes in chapter II section 97, this rule removes language from section 6000 because the referenced member assessment is no longer required. Chapter III also establishes rates for a proposed new MaineCare covered service, Aftercare Services, for the service itself and for mileage reimbursement. Aftercare is a required component of the FFPSA, and establishing the rate is necessary in order to meet the requirements of the FFPSA and the changes adopted in chapter II section 97. The Department shall seek approval from CMS for the new Aftercare Services and the additional practitioners allowable under this Appendix.

Finally, in order to be consistent with the changes that will be finally adopted in chapter II, the Department implements necessary updates to further address potentially stigmatizing language pursuant to PL 2017 ch. 407, and to update references to the Office of Behavioral Health from the Office of Substance Abuse.

Fiscal impact of rule:

The Department anticipates that this rulemaking will cost approximately \$14,037,296 in SFY 2022, which includes \$5,007,768 in state dollars and (9,029,528 in federal dollars, and \$21,055,945 in SFY 2023, which includes \$7,996,483 in state dollars and \$13,059,462 in federal dollars.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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
Chapter number/title: **Ch. 101**, MaineCare Benefits Manual: **Ch. VII Section 5**, Estate Recovery
Filing number: **2021-240**
Effective date: 11/24/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

This emergency rulemaking implements PL 2021 ch. 398, *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, 2021, June 30, 2022 and June 30, 2023*, part A §A-1, pg. 99, an initiative that provides funding to modify MaineCare estate recovery rules to conform with the minimum mandatory federal requirements (*The Omnibus Budget Reconciliation Act of 1993* (PL 103-66)).

Chapter VII section 5, “Estate Recovery”, of the *MaineCare Benefits Manual* (MBM), is modified as follows: Effective November 24, 2021, the Department’s claim is limited to the amount paid by MaineCare for all nursing facility services, home and community-based services, and related hospital and prescription drug services paid on behalf of the Member prior to their death. These services for which recovery is required under federal law.

Pursuant to Act, the Legislature provided the Department with rulemaking authority to implement these services on an emergency basis, per 5 MRS §8054, without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety, or general welfare. Emergency rules are effective immediately and valid for ninety days. The Department shall hereafter initiate “regular” routine technical proposed rulemaking to implement this rule permanently.

Fiscal impact of rule:

The Legislature appropriated state General Funds to the Department of Health and Human Services in the amounts of \$416,870 in fiscal year 2021-22 and \$415,946 in fiscal year 2022-23, and appropriated federal Expenditures Funds in the amounts of \$738,535 in fiscal year 2021-22 and \$739,459 in fiscal year 2022-23.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Division of Licensing and Certification**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 7853, 42, and 3173
Chapter number/title: **Ch. 113**, Regulations Governing the Licensing and Functioning of Assisted Housing Programs, Infection Prevention and Control
Filing number: **2021-119**
Effective date: 6/4/2021
Type of rule: Major Substantive
Emergency rule: No

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

Basis statement:

This is a new, separate rule, that constitutes the 10th Part of 10-144 CMR ch. 113 (Regulations Governing the Licensing and Functioning of Assisted Housing Programs. This Infection Prevention and Control Rule Part is applicable to, and governs, the other nine Parts of the Chapter 113 rule: Assisted Living Programs, Level I Residential Care Facilities; Level II Residential Care Facilities; Level III Residential Care Facilities; Level IV Residential Care Facilities; Level I Private Non-Medical Institutions; Level II Private Non-Medical Institutions; Level III Private Non-Medical Institutions and Level IV Private Non-Medical Institutions. Pursuant to 22 MRS §7853, this rule is a major substantive rule.

This new rule institutes measures to improve and clarify infection surveillance, control, mitigation, and crisis staffing planning in Maine's assisted housing facilities, including assisted living, residential care facilities, and private non-medical institutions.

The provisions related to Infection Prevention and Control apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Center for Disease Control guidance, in response to the increased spread of the 2019 Novel Coronavirus (COVID-19) and will help to mitigate any future outbreaks of novel contagious illnesses. These provisions on infection prevention and control measures necessary for these settings were drafted in consultation with infection control experts from the Maine Center for Disease Control and the Office of Aging and Disability Services.

The Department adopted similar provisions in the recent revision of 10-144 CMR ch. 110, *Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities*, effective August 1, 2020. This rulemaking addresses the likelihood of potential similar incidence of COVID-19 in in Maine's assisted housing facilities, including assisted living and residential care facilities and private non-medical institutions, and the mortal impact of transmission.

In compliance with 22 MRS §7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP). On June 25, 2020, the Department submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input. Department staff and LTCOP Executive Director Gallant and staff discussed the rulemaking on or about June 26, 2020, at which time Executive Director Gallant expressed no concerns regarding the draft rule.

The Department, through OADS, had requested federal Covid Relief Funding (CRF) under the Coronavirus Aid, Relief, and Economic Security Act to hire an infection control consultant, who worked with facilities to help them develop an Infection Control and Prevention plan, as required by this rule. The Department received approval for the CRF at the end of September 2020. The facilities' plan development/infection control consultation costs were defrayed

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

though the CRF. The rule provides a requirement for PPE and supplies, but these measures have been in place in the facilities in response to the COVID-19 pandemic.

Because this is a major substantive rule, the APA required a public hearing be held. 5 MRS §8052(1). Due to the Covid public health emergency, the public hearing was held virtually via ZOOM on Thursday, November 12, 2020.

Pursuant to 5 MRS §8072, the provisionally adopted rule was submitted to the Maine Legislature for its review. The legislative review resulted in no changes to the provisionally adopted rule. HP 421, LD 578, “Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control, a Major Substantive Rule of the Department of Health and Human Services, Division of Licensing and Certification” finally passed on April 28, 2021, and enacted as an emergency resolve, and was signed into law on May 5, 2021. Resolves 2021 ch. 13, (emergency, effective May 5, 2021). Sec. 1 of the Resolve provides that: “Notwithstanding Title 5, section 8072, subsection 8, when finally adopted in accordance with this resolve, this rule takes effect immediately upon filing with the Secretary of State.”

Fiscal impact of rule:

There will be no additional costs to the Department as a result of this rulemaking.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 820(1)(C)
Chapter number/title: **Ch. 124**, Emergency Medical Services Personnel Reporting Rule
Filing number: **2021-148**
Effective date: 8/20/2021
Type of rule: Major Substantive
Emergency rule: No

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

Basis statement:

Pursuant to 22 MRS §820(1)(C), this is a major substantive rule. Pursuant to Resolve 2021 ch. 51, the Department of Health and Human Services (Department) finally adopts this new major substantive rule, 10-144 CMR chapter 124, Emergency Medical Services Personnel Reporting Rule.

On April 22, 2020, the Department adopted an emergency major substantive rule, which, per 5 MRS §8073, was effective one year, through April 21, 2021. The Department then proposed a major substantive rule. After the comment period, the rule was provisionally adopted and submitted to the Legislature for its review pursuant to 5 MRS §8072. Resolve ch. 51 authorized final adoption of this rule and directed that immediate enactment of the Resolve was necessary, and therefore directed that the Resolve took effect when approved. The Resolve was approved by the Governor on June 11, 2021. In accordance with 5 MRS §8072(8), the Department has finally adopted this rule within 60 days of the effective date of the legislation approving this rule.

Through its authority in 22 MRS §820(1)(C), the Department is establishing a uniform system of reporting requirements, to enable statewide surveillance of the response capacity of the State of Maine's healthcare workforce, specifically emergency medical service (EMS) personnel, during a declared Extreme Public Health Emergency (22 MRS §802(2-A)). This rule ensures the Department's continued 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 requires EMS organizations and emergency medical dispatch (EMD) centers to report information about EMS personnel who, during a declared Extreme Public Health Emergency, have been removed from the workforce temporarily because they have been exposed to a Notifiable Disease or 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. Accurate and reliable statewide data is essential for coordinating with municipal localities, other State

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

offices, federal emergency management agencies and healthcare systems across the State, in order to prepare for and respond to public health emergency needs.

Fiscal impact of rule:

None anticipated.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §2604-B
Chapter number/title: **Ch. 234** (*New*), Lead Testing in School Drinking Water Rule
Filing number: **2021-257**
Effective date: 1/12/2022
Type of rule: Major Substantive
Emergency rule: No

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

Basis statement:

Approximately 120 of Maine's 700 schools are currently regulated as public water systems, because they serve water from their own source of water, usually a well, to at least 25 people for at least 60 days in a year. These schools regulated as public water systems must comply with State and federal drinking water requirements for lead in the *Rules Relating to Drinking Water* (10-144 CMR ch. 231). This new major substantive rule expands lead testing requirements to the remaining 580 Maine schools that receive water from districts or utilities, in order to identify and mitigate high lead levels.

The Department of Health and Human Services, Maine CDC (the Department), advertised a proposed rulemaking on December 18, 2019 to create a new rule, 10-144 CMR ch. 234, *Lead Testing In School Drinking Water Rule*. A public hearing was held on January 8, 2020. Written comments were accepted until January 18, 2020. The provisionally adopted major substantive rule, pursuant to 5 MRS §8072, was submitted to the Legislature for review on March 11, 2020. The Legislature adjourned, due to the COVID-19 pandemic before it could review the provisionally adopted rule. As a result, the Department submitted the provisionally adopted rule a second time to the Legislature for review on December 8, 2020.

Following its review of the provisionally adopted rule received in December 2020, the Legislature directed the Department to change a number of items, in the 130th Legislature's Resolve, Regarding Legislative Review Chapter 234: Lead Testing in School Drinking Water Rule, a Major Substantive Rule of the Department of Health and Human Services, Maine Center for Disease Control and Prevention (Resolves 2021 ch. 44), which became law on June 11, 2021. The Department made the following changes at the direction of the Legislature:

1. Replaced 15 ppb as the lead action level with 4 ppb in Sections 4.A, 5.A, 5.A.3, 5.B, 6.B.2, 6.B.3 and 6.B.4.
2. In Section 1.B.4, deleted the phrase "and a maximum of no more than 18 hours".
3. In Section 3.B.3, replaced the sentence "The Department, in accordance with the 3T's guidance, recommends that the water be motionless no longer than 18 hours, before the collection of samples begins." with the sentence "Excessive flushing of pipes may not take place immediately prior to the minimum 8-hour nonusage period in order to ensure that the sample represents a period of normal use".
4. In Section 6.C, replaced the phrase "within 10 days" with the phrase "as soon as practicable within 5 days".

In addition to the changes required by the Legislature, the Department also made three non-substantive edits to the rule. In the Table of Contents, the Department revised the Section 5 heading from "Abatement and Mitigation Methods" to "Abatement and Mitigation" to be consistent with the heading of Section 5 within the rule. Similarly, within the rule the Department revised the heading of Section 6 from "Public Notification to Parents" to "Public

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Notification," which is the heading of Section 6 in the Table of Contents. Finally, in Section 6(A) the Department removed an extra period from the end of the sentence.

This new major substantive rule complies with 2019 PL ch. 158, *An Act to Strengthen Testing for Lead in School Drinking Water*, codified at 22 MRS §2604-B, which directs the Department to adopt a major substantive rule and establish drinking water testing protocols for lead in schools, a standard of lead in school drinking water, abatement and mitigation methods, as well as public notification and reporting protocols.

Fiscal impact of rule:

There are no additional costs associated with this rule. The Department will utilize existing staff and resources.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 5 MRS §8052; 22 MRS §§ 802(3), 821, 835
Chapter number/title: **Ch. 258**, Rules for the Control of Notifiable Diseases and Conditions
Filing number: **2021-035**
Effective date: 2/17/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This routine technical rule adoption is to permanently establish requirements implemented on an emergency basis for designated health care facilities to report information related to emergency preparedness and responsiveness, and clarifying the Departments authority to access health information through the state health information exchange described at 22 MRS §1711-C(18). This rule improves the Maine CDC's ability to prepare for and respond to health emergencies related to the spread or potential spread of communicable, zoonotic, occupational or environmental diseases and conditions or widespread exposure to a toxic agent or environmental hazard. This rule change further amends 10-144 CMR chapter 258 to: 1) add the following five additional disease conditions: Acute flaccid myelitis, *Candida auris*, *Borrelia miyamotoi*, vaping-associated pulmonary illness, and Zika; 2) modify two multi drug-resistant organisms; 3) remove *Staphylococcus aureus* (MRSA) from the list; 4) update the human immunodeficiency virus (HIV) testing terminology; 5) clarify authority to access health information, including healthcare information from other entities not specified (e.g. MaineCare), as permitted by statute, to aid in epidemiological investigations; 6) clarify laboratories' electronic reporting requirements; 7) clarify temporary reporting requirements that may be issued through public notice when the disease or condition can cause serious morbidity or mortality and reporting is necessary to monitor, prevent, or control the disease or condition to protect public health; and 8) clarify enforcement actions, including referrals to licensing boards and/or the Office of the Attorney to seek injunctive relief for noncompliance with reporting Category 1 conditions, specifically, and assess civil fines for noncompliance and false reporting. Additionally, the adopted rule specifies the revised frequency in reporting of bed occupancy required outside of a declared health emergency event as it relates to emergency management planning and responsiveness. Provisions of the adopted rule ensure that the Department is consistent with disease reporting recommended nationally for conditions impacting public health and safety, and that information is accessible timely as diseases and conditions emerge and data needs evolve.

Basis statement:

The Department of Health and Human Services (Department) is adopting changes to the Control of Notifiable Diseases and Conditions Rule, a routine technical rule, pursuant to the Control of Notifiable Diseases and Conditions Act, 22 MRS §§ 801 *et seq.* The Control of Notifiable Diseases or Conditions Rule identifies those communicable, environmental, and occupational diseases and conditions the presentation of which must be reported to the Department; sets forth reporting requirements; outlines the Department's authority and practices to investigate, surveille, and control such diseases and conditions; and identifies additional interventions the Department may implement to counter public health threats during a declared health emergency or extreme public health emergency.

Amendments of the Control of Notifiable Diseases and Conditions rule adopted by the Department supplement and move the list of the notifiable diseases and conditions that must

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

be reported to the Department to a new Appendix A, and further the protection of the public health and safety through disease surveillance, investigation, and intervention. This Notifiable Diseases and Conditions Reporting Rule also implements safeguards to limit the potential for the spread of communicable, occupational, and environmental diseases and conditions and widespread exposure to a toxic agent or environmental hazard. The adopted rule also sets forth requirements for the reporting of emergency planning and critical resource capacity, and clarifies the Department's authority to directly access the statewide health information exchange in accordance with 22 MRS §1711-C (18).

The Department is designating the following additional diseases and conditions as Notifiable Diseases and Conditions: 1) acute flaccid myelitis (AFM); 2) *Borrelia miyamotoi*; 3) *Candida auris*; 4) pan drug-resistant organisms; 5) Zika virus disease; and 6) colistin-resistant organisms. This rule expands testing and reporting for Human immunodeficiency virus (HIV) to include current laboratory testing technology and reference US CDC requirement; expands carbapenem-resistant *Enterobacteriaceae* (CRE) to require carbapenem-resistant organisms (CRO), as defined by the updated Clinical Laboratory Standards Institute Performance Standards; expands *Staphylococcus aureus* with resistance to vancomycin (VRSA) to *Staphylococcus aureus* non-susceptible to VRSA; and removes *Staphylococcus aureus*, methicillin-resistant.

- The addition of AFM to Maine's notifiable disease and conditions list will increase provider awareness for the condition, improve reporting promptness and ideally improve the quality of specimen collection which are all important for such a severe disease that is currently not well understood.
- One of the missions for public health is to slow the spread of emerging drug-resistant organisms, especially in healthcare facilities. Changes to two multi drug-resistant organisms will achieve greater public health protection and consistency with the updated Clinical Laboratory Standards Institute Performance Standards and allow the public health department to respond to the threat of emerging multi-drug resistance organisms. These organisms include: 1) carbapenem-resistant *Enterobacteriaceae* (CRE), which will be modified to include germs from other bacteria families and include only carbapenemase-producing CRE/CRO, as this subset of CRE/CRO is considered to be a more significant threat to public health due to these organisms' ability to spread resistance rapidly; and 2) *Staphylococcus aureus* with resistance to vancomycin, which will be expanded to *Staphylococcus aureus* non-susceptible to vancomycin, to include *Staphylococcus aureus* with intermediate-resistance to vancomycin.
- The rule requires the reporting of organisms resistant to colistin, and organisms resistant to all drugs (pan drug-resistant organism) and *Candida auris*, the most concerning resistant germs to help Maine CDC monitor the occurrence of these organisms, assess the public health risk, and develop educational or containment activities.
- Invasive methicillin-resistant *Staphylococcus aureus* (MRSA) is removed from the rule. MRSA is now widespread throughout Maine and MRSA data for Maine are available via other state and federal reporting mandates.
- Due to the public health risks of Zika virus infection in women of childbearing age and newborns, the addition of Zika to the list of notifiable conditions will enhance public health surveillance capabilities and will allow Maine CDC to focus on prevention methods that target populations at high-risk for this disease.
- The addition of *Borrelia miyamotoi* to the list of notifiable conditions will help Maine CDC monitor and understand the distribution of this disease and prepare resources to educate communities.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

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 healthcare facility's emergency management planning and operations. Adoption of this rule amendment standardizes reporting requirements to enable ongoing statewide surveillance of hospital and other healthcare facility resources and planning to aid emergency preparedness and responsiveness at the State and local levels related to the risk or potential risk of supply shortages during a declared public health threat or extreme public health emergency, to mitigate the impact of on public health and safety and reduce system recovery periods. During and outside of any declared health emergency, reporting of bed type occupancy and medical supply inventory and the reporting of potential emerging injurious diseases or conditions for a temporary period serve as critical surveillance methods for the Department to prepare for and respond timely and appropriately to actual emergencies.

22 MRS §802(1)(C) authorizes the Department to make rules to describe its process for investigating cases, epidemics, outbreaks and occurrences of communicable, environmental, and occupational diseases. Adopted amendments clarify the Department's authority to access patient and hospital information via the statewide health information exchange network (HIN), described in 22 MRS §1711-C, to assess and verify clinical information and inform potential related contact history, improving disease surveillance and facilitating a more efficient epidemiological case investigations. Efficiencies in electronic reporting and the Department directly accessing HIN reduces administrative burden related to reporting information to the Department to conduct investigations of cases, outbreaks, epidemics, exposures, or potential epidemics or exposures of notifiable conditions and diseases. For the purpose of responding to and investigating outbreaks, epidemics, exposures, or potential epidemics or exposures of notifiable conditions and diseases, timely access to information related to an identified public health risk is critical to protecting citizens of Maine. Failure to comply with reporting requirements potentially delays response time and, to ensure timely data transmission and incident responsiveness, the rule outlines progressive enforcement actions which includes assessing fines within the range specified in statute for entities failing to report data electronically in accordance with the rule's requirement to use the Maine CDC's surveillance system, and which may also include a referral to licensing board(s) for noncompliance with reporting requirements for Category I diseases and conditions. Additionally, this rule includes new and revised definitions; a new rule title and rule construction; grammatical corrections; and other minor technical changes for improved readability and consistency with agency formatting standards.

Fiscal impact of rule:

No anticipated significant fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)** (*jointly with the Department of Education*)

Umbrella-Unit: **10-144**

Statutory authority: 20-A MRS §§ 6352-6358; 22 MRS §806

Chapter number/title: **Ch. 261** (DOE: ch. 126), *Immunization Requirements for School Children*

Filing number: **2021-187**

Effective date: 9/25/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Department of Health and Human Services - Maine Center for Disease Control and Prevention (DHHS) and the Maine Department of Education (DOE) are jointly adopting this routine technical rule change to implement PL 2019 ch. 154: *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* (the "Act") by amending *Immunization Requirements For School Children*, a joint rule that specifies the diseases for which immunity or immunization is required for children entering elementary and secondary school. The Act prohibits the inclusion of any provision governing medical exemptions in this rule. (PL 2019 ch. 154 §7). The Act repeals the exemption from required immunization for school students who object based on a sincere religious belief or philosophical reasons, effective September 1, 2021, with exceptions for certain students, including those participating in distance learning programs and those covered by an individualized education plan. Those students who have previously declined immunizations based on religious or philosophical objection and are otherwise not eligible for exemptions permitted by law, including those attending elementary or secondary schools for pre-kindergarten instruction, will be subject to current immunization requirements for specified diseases. This rule requires schools to include in their annual reports any applicable immunization requirements adopted by ordinance or policy, in addition to the immunization status of all students, including immune students, exempt and non-immunized students. Additionally, these rule changes include new and revised definitions; add a vaccine schedule for pre-kindergarten students; clarify existing authority and responsibility to exclude an individual from school when there is a public health threat pursuant to 20-A MRS §§ 6301, 6356(1), 22 MRS ch. 250, and 10-144 CMR ch. 258 and responsibility related to non-immunized and exempt students. Finally, changes are adopted to the format of the rule for conformity with Maine CDC rulemaking standards.

Basis statement:

This joint rule is established to ensure a safe and healthful school environment for all Maine students by requiring all children entering public or private schools in the State of Maine to receive the required vaccines recommended by the Federal Centers for Disease Control (CDC) and the Advisory Committee on Immunization Practices (ACIP).

This rule prescribes the dosage for required immunization for students enrolled in or attending in-person classes or remote learning program instruction for pre-kindergarten through grade 12, clarifies circumstances requiring exclusions from school, and refines record-keeping and reporting requirements for school officials specific to children enrolled in or attending a school, including immune students, students exempt from immunization requirements in accordance with 20-A MRS §6355 and the rule, and non-immunized students. The adopted rule includes changes made based on public comment and recommendations by

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

the Office of Attorney General, which the Department determined further clarify proposed provisions and, as non-substantive in nature, do not meet the threshold to require further public comment.

Public Law ch. 154 (introduced as LD798): *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* was signed by Janet Mills on May 24, 2019. This new law, which takes effect September 1, 2021, removes the provisions permitting exemption from immunization requirements, based on religious and philosophical objection, and prohibits the rule from including provisions governing medical exemptions. This rule implements the requirement that all students provide a complete immunization record or a signed medical exemption that is provided by a Maine-licensed physician, nurse practitioner (NP) or physician assistant (PA) to enroll and/or attend a public or private elementary or secondary school in the State of Maine, unless otherwise exempt in accordance with this law and the adopted rule.

The Department determines that this rule adoption has no significant financial impact. This rule is supported by the Maine Immunization Program providing vaccines at no cost for children in the State, including all required school vaccines. Additionally, the rule provides for a child who has not receive vaccinations in accordance with the rule, to consult with a Maine-licensed physician, NP or PA to advise on a revised immunization schedule to catch up on required vaccination doses.

Fiscal impact of rule:

No significant financial impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 20-A MRS §6359(6)
Chapter number/title: **Ch. 262**, Post-Secondary Immunization Rule
Filing number: **2021-154**
Effective date: 8/11/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

10-144 CMR Chapter 262 implements 20-A MRS §6359, which identifies certain preventable diseases for which immunization is required of all students attending public or private post-secondary schools in the State, unless exempt under Maine law, and states dosing requirements consistent with federal recommendations for the specified immunizing agents. The Department is proposing amendments to the rule to implement PL 2019 ch. 154, *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements*, enacted by the 129th Maine Legislature and effective June 16, 2020 (the “Act”). The Act prohibits the Department from including any provision governing medical exemptions in this rule. (PL 2019 ch. 154, §7.) The Act repeals the exemption from required immunization for post-secondary school students who state a sincere religious belief or philosophical reasons for opposing immunization, effective September 1, 2021. (PL 2019 ch. 154 §6.) Consistent with the Act, this rule proposes to remove language describing authorized exemptions in law, to minimize potential confusion and the need for subsequent rulemaking. The proposed rule amendments will clarify authority and responsibility regarding the exclusion of students when there is a public health risk related to a disease outbreak and will specify the required documentation in students’ health records for recording immunization status for all students, including immune students, exempt and non-immunized students. The Department is proposing language to clarify the definition of ‘*School*’ and language to clarify that students who do not physically attend classes or programs at the school are permitted to be enrolled in a distance learning program without documented evidence of immunization or immunity.

Basis statement:

Pursuant to 20-A MRS §6359(6), this rule is routine technical, as defined in 5 MRS §8071(2)(A), except for those provisions that specify the diseases for which immunization is required, which are major substantive, as defined in 5 MRS §8071(2)(B). The adopted amendments implement PL 2019 ch. 154, *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements*, enacted by the 129th Maine Legislature and effective June 16, 2020. This Act prohibits the Department from including any provision governing medical exemptions in this rule and repeals the exemption from required immunization for post-secondary school students who state a sincere religious belief or philosophical reason for opposing immunization, effective September 1, 2021.

Consistent with this Act, the Post-Secondary School Immunization Rule removes specific language concerning exemption requirements, to ensure that the rule can remain consistent with provisions in law that include varying effective dates for medical, religious and philosophical exemptions, avoiding potential confusion and subsequent rulemaking. The final adopted rule clarifies the authority and responsibility regarding the exclusion of students, when there is a public health risk related to a disease outbreak and specifies the required

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

documentation in students' health records for recording immunization status for all students, including immune students, exempt and non-immunized students, as well as required content of the school's annual report.

Student immunization information may be accessed by the Department for the purpose of monitoring compliance with the law and to inform, for public health purposes, control measures for certain communicable diseases and potential outbreaks. Nothing in this rule may be construed to preclude the governing board of a public or private post-secondary school from adopting immunization requirements that are more stringent than the provisions set forth in statute or this rule, which is in alignment with 20-A MRS §6359 (6).

Fiscal impact of rule:

None

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 802(1)(D), 802 (3), PL 2019 ch. 154 §11
Chapter number/title: **Ch. 264**, Immunization Requirements for Healthcare Workers
Filing number: **2021-068**
Effective date: 4/14/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is established to ensure a safe and healthful environment for Maine healthcare workers and patients by requiring all healthcare workers employed at a designated healthcare facility in the State of Maine to receive required vaccines. Rule changes amending 10-144 CMR ch. 264, *Immunization Requirements For Healthcare Workers*, include 1) adding language that refers to the statutory authority governing exemptions in place of duplicative or outdated language in rule specifying the reasons for which a healthcare facility employee may be exempt from immunization requirements (2019 PL ch. 154); 2) updating the definition of *Intermediate Care Facility for the Mentally Retarded (ICF/MR)* to *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)*; 3) adding definitions for additional terms, *public health threat* and *extreme public health emergency*; 4) removing outdated H1N1 2009-10 reporting language; and 5) adding seasonal influenza to the list of vaccine-preventable diseases for which healthcare facilities must require all employees to provide proof of immunization, or immunity, or documentation of an authorized exemption. The rule changes clarify that, in addition to required vaccines listed in rule, healthcare workers may be subject to control measures instituted due to public health emergencies. Rule changes also include minor technical changes to conform to agency standards.

Basis statement:

This routine technical rule is established pursuant to 22 MRS ch. 250, to ensure a safe and healthy environment for Maine healthcare workers and patients by requiring all healthcare workers employed at a designated healthcare facility in the State of Maine to receive certain required vaccines. Unlike rules promulgated pursuant to 20-A MRS ch. 223 sub-ch. 2, this rule's statutory designation as routine technical, pursuant to 22 MRS §802(3), is not affected by PL 2019 ch. 154. The Department adopted the following amendments to this *Immunization Requirements for Healthcare Workers* rule:

- 1) Added and updated references to the statutory authority for the rule;
- 2) Clarified, in the Summary, that the rule is purposed to reduce the risk for exposure to and transmission of vaccine-preventable diseases;
- 3) Updated the definition of *Designated Healthcare Facility* to clarify the term applies to facilities subject to licensure by the Department;
- 4) Updated the term *Intermediate Care Facility for the Mentally Retarded (ICF/MR)* to *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)*;
- 5) Added definitions for *Public Health Emergency*, *Public Health Threat*, and *Extreme Public Health Emergency*;
- 6) Removed outdated H1N1 2009-10 reporting language;
- 7) Added influenza to the list of vaccine-preventable diseases for which healthcare facilities must require all employees to provide proof of immunization, or immunity, or documentation of an authorized exemption;

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- 8) Added a description of the Department's authority during a declared Extreme Public Health Emergency, to impose additional disease prevention control measures, including mandatory and mass vaccinations and recommended dosages therefor; and
- 9) Clarified that records of Designated Healthcare Facility employee vaccinations must be maintained by the facility for six years following termination.

The Department determined that these rule changes promote additional safety and health for Maine healthcare workers and patients. Adding seasonal influenza to the list of required vaccines ensures this preventative measure to control vaccine-preventable diseases is in place across healthcare provider settings, to further protect public health by reducing the potential spread of this communicable disease. The amendments also bring the rule into compliance with recent Maine statutory changes and the elimination of the religious and philosophical exemptions. In addition, this rule change more accurately aligns with present State immunization laws.

Finally, changes prompted by public comments reorder the listed diseases for consistency within the document; clarify application of the rule by specifying it is only those facilities that, by statute, are designated facilities that must comply with this rule – i.e., facilities subject to licensure by the Department's Division of Licensing and Certification; and clarify that employers are to retain employee medical records for six years, minimally, after termination.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 802(1), 802(3)
Chapter number/title: **Ch. 264**, Immunization Requirements for Healthcare Workers
Filing number: **2021-166**
Effective date: 8/12/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Department finds that vaccination against COVID-19 prevents severe illness, hospitalization, and death, and that it helps to reduce the spread of the virus, including the Delta variant, in communities. The presence of the highly contagious Delta variant in Maine constitutes an imminent threat to public health, safety, and welfare. The Department finds that immediate adoption of this rule is necessary to avoid further spread of COVID-19 in all healthcare settings in order to prevent infection, illness, hospitalization, and death. The Department further finds that immediate adoption of this rule on an emergency basis is necessary to prevent further strain on the state's healthcare system as a result of increased COVID-19-related hospitalizations, as well as reduced capacity caused by illnesses among members of the workforce.

Basis statement:

In accordance with 5 MRS §8054, the Department is amending 10-144 CMR chapter 264, *Immunization Requirements For Healthcare Workers* on an emergency basis to immediately add COVID-19 to the list of vaccine-preventable diseases for which employees of a licensed nursing facility, residential care facility, Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), multi-level healthcare facility, hospital, or home health agency subject to licensure by the State of Maine, Department of Health and Human Services Division of Licensing and Certification must be immunized. In addition, the Department is also requiring Emergency Medical Services Organizations and Dental Health Practices to require all employees to provide proof of immunization against COVID-19. Employees who do not provide proof of immunization must be excluded from the workplace for the duration of the Department's declared public health emergency, which began on July 1, 2021 and is currently in effect.

Findings of Emergency

Cases of COVID-19 have increased over 300% nationally between June 19, 2021 and July 23, 2021. This increase has been driven by the highly transmissible B.1.617.2 (Delta) variant of SARS-CoV-2, the virus that causes COVID-19. The Delta variant is now believed to be the predominant variant of the virus in the country. Like the rest of the nation, Maine is experiencing a rapid increase in the number of COVID-19 infections as a result of the Delta variant, which is significantly more contagious than previous versions of the virus and more likely to cause serious illness, hospitalization, and death. The Delta variant represented more than 86% of positive COVID-19 samples sequenced in Maine in July 2021. Across the United States, only a very small amount of transmission can be traced to individuals who have been fully vaccinated against COVID-19. Virtually all hospitalizations and deaths caused by COVID-19 are occurring among the unvaccinated. In Maine, less than 2% of all confirmed cases since January 18, 2021 have been among fully vaccinated individuals; less than 4% of COVID-related hospitalizations and less than 6% of COVID-related deaths have been among fully

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

vaccinated people. Since July 21, 2021, Maine has opened outbreak investigations associated with two hospitals and three long-term care facilities. As of August 11, 2021, outbreak investigations associated with hospitals and long-term care facilities account for just more than one third of all open outbreak investigations in Maine.

The Department finds that getting vaccinated against COVID-19 prevents severe illness, hospitalization, and death, and that it helps to reduce the spread of the virus, including the Delta variant, in communities. The presence of the highly contagious Delta variant in Maine constitutes an imminent threat to public health, safety, and welfare. The Department finds that immediate adoption of this rule is necessary to avoid further spread of COVID-19 in these healthcare settings within this rule, in order to prevent infection, illness, hospitalization, and death. The Department further finds that immediate adoption of this rule on an emergency basis is necessary to prevent further strain on the state's healthcare system as a result of increased COVID-19-related hospitalizations, as well as reduced capacity caused by illnesses among members of the workforce.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 802(1), 802(3)
Chapter number/title: **Ch. 264**, Immunization Requirements for Healthcare Workers
Filing number: **2021-226**
Effective date: 11/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The adopted rule includes changes from the proposed rule. The adopted rule is establishing to prevent the spread of vaccine-preventable disease in certain healthcare settings, The Department proposed to amend the rule to add COVID-19 to the list of vaccine-preventable diseases for which employees of Designated Healthcare Facilities must show proof of immunization or documented exemptions allowed by statute. In addition, the Department removed the EMS Organizations and Dental Health Practices proposed to be added to the list of healthcare settings where employees are required to be immunized for COVID-19. Adoption of this rule is necessary to avoid spread of COVID-19 in these healthcare settings, in order to prevent infection, illness, hospitalization, and death. Additionally, adoption of this rule will help to prevent further strain on the state's healthcare system as a result of increased COVID-19 relate hospitalizations.

Basis statement:

These routine technical rule changes are adopted pursuant to 22 MRS §802, to control the spread of COVID-19 among Maine healthcare workers and patients by requiring healthcare workers employed in Designated Healthcare Facilities in the State of Maine to be vaccinated against COVID-19. This rulemaking is routine technical pursuant to 22 MRS §802(3).

Although the Department initially proposed amendments that would broaden the scope of this rule to include EMS Organizations and Dental Health Practices, the Department has decided not to include them in this final adopted rule, as set forth in the Department's Response to Comments and List of Changes. On November 3, 2021, the Maine Board of Emergency Services (EMS Board) proposed a rule that would make permanent its August 23, 2021 emergency rule requiring its licensees to required COVID-19 vaccination for all "Covered Emergency Medical Service Persons." The Department has decided not to include EMS Organizations in this rule so as to avoid any conflict or confusion between this rulemaking and the EMS Board's rulemaking efforts. With respect to Dental Health Practices, the Department has removed them due to no evidence of outbreaks initiated in dental practices.

The 2019 Novel Coronavirus (COVID-19) is a respiratory illness caused by a coronavirus, known as SARS-CoV-2. The COVID-19 outbreak was first identified in January 2020 in Wuhan City, China and has since spread to 222 countries and territories. On January 31, 2020, the United States Department of Health and Human Services determined that the COVID-19 virus constituted a nationwide public health emergency, effective January 27, 2020 (the "Public Health Emergency"). On March 11, 2020, the World Health Organization declared the COVID-19 virus to be a global pandemic. On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency (the "Federal Proclamation of Emergency"). The Public Health Emergency has been renewed several times, most recently on July 20, 2021. The Federal Proclamation of Emergency was continued by the President on February 24, 2021.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

As of October 19, 2021, there have been approximately 241,000,000 cases of COVID-19 detected worldwide, including 4,910,000 COVID-19 deaths. As of October 19, 2021, there have been 98,607 probable and confirmed cases of COVID-19 in Maine, including 1,102 deaths. In Maine, 6,598 self-identified health care workers have contracted COVID-19. Of those, approximately 2,849 have occurred since COVID-19 vaccines first became available on January 18, 2021.

The COVID-19 virus spreads when an infected person exhales droplets and/or very small aerosol particles that contain the virus. These droplets and/or aerosols can be inhaled by other people or land in their eyes, nose, or mouth. People who are closer than 6 feet from the infected person for more than 15 cumulative minutes are most likely to get infected. COVID-19 is spread in three main ways: breathing in air when close to an infected person who is exhaling small droplets and particles that contain the virus; having these small droplets and particles that contain virus land on the eyes, nose, or mouth, especially through splashes and sprays like a cough or sneeze; and touching eyes, nose, or mouth with hands that have the virus on them.

Variants of the COVID-19 virus that circulated at the beginning of the pandemic had an incubation period of up to 14 days. A person could be infected and spread the virus during that entire time period, sometimes without experiencing any symptoms during that time. This phenomenon, known as “asymptomatic transmission,” makes control of COVID-19 especially challenging because individuals can transmit the disease before knowing that they have it. An analysis by the USCDC concluded that approximately 40% of all COVID-19 transmission of the early variants could occur while individuals were asymptomatic, and approximately 35% of all COVID-19 patients did not have symptoms at all.

Given the length of the pandemic, several variants of the virus that causes COVID-19 have emerged over time. All variants of the virus spread easily between people at a rate faster than influenza spreads. An even more contagious variant of the virus, known as the Delta variant, emerged in 2021. According to the USCDC, the Delta variant is more than twice as contagious as previous variants and may cause more severe illness than previous variants in unvaccinated people. It is possible for an infected individual to begin spreading the Delta variant to others within 24 to 36 hours of exposure. Like other variants, the Delta variant exhibits asymptomatic transmission.

The gold standard to prevent the spread of communicable diseases, including COVID-19, is vaccination. Population-level immunity, colloquially referred to as “herd immunity,” is an epidemiological phenomenon whereby even unvaccinated individuals are protected against an infectious disease by virtue of being in an environment with sufficiently high vaccination levels. When population-level immunity is achieved, an individual who is not able to be vaccinated can enjoy the benefits of being vaccinated because others around them are vaccinated and can block the virus from spreading from person to person. The level of vaccination required to achieve population-level immunity varies with the contagiousness of the disease: the higher the contagiousness, the higher the vaccination rate required to achieve population-level immunity. In light of the Delta variant, epidemiological models suggest that at least 90% of a population would need to be vaccinated in order to achieve population-level immunity.

For the monthly reporting period ending July 31, 2021, the rate of voluntary uptake of COVID-19 vaccines among healthcare workers was as follows:

Ambulatory Surgical Centers: 85.9%

Assisted Housing Facilities: 74.7%

Hospitals: 80.3%

Intermediate Care Facilities for Individuals with Intellectual Disabilities: 68.2%

Nursing Homes: 73.0%

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

All facilities fell significantly below the minimum 90% threshold needed to reduce the likelihood of facility-based outbreaks.

The rationale for requiring immunization in healthcare settings is that high vaccination rates prevent the spread of disease through the population and amongst vulnerable populations. When vaccination rates fall below the level necessary for population-based immunity, the health of individuals with weakened immune systems, infants and children too young to be vaccinated, and persons unable to be vaccinated are put in jeopardy.

There are three COVID-19 vaccines that are generally available to the public. The Pfizer-BioNTech COVID-19 vaccine received Emergency Use Authorization for adults from the FDA on December 11, 2020; it received full authorization for adults on August 23, 2021. As of February 27, 2021, both the Moderna and Janssen COVID-19 vaccines also received FDA Emergency Use Authorization for adults. The Pfizer vaccine received Emergency Use Authorization for children between the ages 12-17 on August 23, 2021. As of October 19, 2021, none of these vaccines is authorized or approved for administration to children under the age of 12.

In Maine, the rate of COVID-19 infection in those in the 12 and up population is 7.1 times higher among the unvaccinated, as compared with those who are fully vaccinated. According to recent nationwide data published by the USCDC, unvaccinated individuals are at least 10 times more likely to be hospitalized with COVID-19 than those who have been vaccinated. The same data showed that unvaccinated individuals are 11 times more likely to die of the virus as compared with vaccinated individuals. In Maine, unvaccinated individuals are about 23 times more likely to be hospitalized with COVID-19 than those who have been vaccinated.

As of October 19, 2021, out of the 1,287 COVID-19 outbreaks that have been investigated by Maine CDC since the beginning of COVID-19, 28 outbreaks occurred in hospitals and 209 occurred in long-term residential care facilities. Most Designated Healthcare Facility outbreaks are the result of healthcare workers who bring COVID-19 into the facility. Outbreaks have continued to occur in healthcare settings, particularly hospitals, nursing homes, and long-term care facilities, even despite the widespread use of personal protective equipment (PPE) in these settings.

In light of the above, and given its experience and expertise in matters of public health, the Department has determined that requiring COVID-19 vaccinations for healthcare workers in certain settings is necessary to protect public health including, but not limited to, for the following reasons:

Protection of individual patients. Many patients receiving care in the settings covered by this rule are particularly vulnerable to developing serious illness as a result of COVID-19, including the elderly and those with underlying health problems. Preventing the spread of COVID-19 to these patients is a paramount concern.

Protection of individual workers. Workers in high-risk healthcare settings are likely to interact with many patients in any given day, increasing the risk that they will be exposed to an individual with COVID-19. Because employees interact with not just their patients, but also with each other, they are at risk of transmitting the disease amongst themselves.

Protection of the State's healthcare infrastructure, including the workforce. In some areas of Maine, an outbreak among healthcare workers requiring them to quarantine, or to be absent for a longer period as a result of illness caused by COVID-19, could cripple the facility's ability to provide care. Combined with increasing infection rates in the community, this could lead to an insufficient workforce to respond to the state's healthcare needs. Even before the onset of COVID-19, Maine's healthcare system was fragile due to understaffing. An outbreak of COVID-19 amongst ICU nurses in a

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

rural hospital, for example, could incapacitate the hospital's ability to care for seriously ill patients. Considering the unique circumstances of the state of Maine, it is necessary to take every available precaution to limit the spread of COVID-19 both in healthcare settings and among their workers.

Reducing the likelihood of facility outbreaks. As noted above, most COVID-19 outbreaks in facilities are caused by an infected healthcare worker bringing the virus into the facility. Reducing the number of unvaccinated healthcare workers statewide lowers the likelihood of outbreaks in healthcare settings. Limiting the number of infections in healthcare settings is essential to slowing the spread of COVID-19 across the state and reducing the incidence of illness and death.

The Department considered whether there were other, less restrictive measures that might be appropriate for protecting against COVID-19 and determined that there were none. For example, the Department considered possibly periodic testing of health care workers. But given the speed with which the Delta variant is transmitted, and the time lapse for receiving results, even daily testing would be ineffective to preventing transmission.

The Department has determined that these rule changes, including those listed in the Summary of Comments and Response to Comments, are necessary to reduce the spread of COVID-19 and to prevent infection, illness, and death among healthcare workers, patients, and the public. In reaching the decision to finally adopt these rule changes, the Department has considered whether there were other, less restrictive measures that might be appropriate to adequately achieve this goal and, for the reasons described above, has concluded that there are none.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 20-A MRS §210
Chapter number/title: **Ch. 283**, Newborn Bloodspot Screening Rule
Filing number: **2021-063**
Effective date: 3/11/2021
Type of rule: Routine Technical *and* Major Substantive
Emergency rule: Yes

Principal reason or purpose for rule:

This is an emergency routine technical rule, except for Section 14 (Fees), which is an emergency major substantive rule, pursuant to 5 MRS §8071(3)(B).

Emergency Routine Technical Rule Changes:

The Department is adding the following conditions to Appendix A (Core Conditions)

- Mucopolysaccharidosis Type I (MPS-1)
- Pompe
- Spinal Muscular Atrophy (SMA)
- X-linked Adrenoleukpdysrophy (X-ALD)

Emergency Major Substantive Changes:

The filter paper fee is being increased from \$110/per infant tested, to \$220/per infant tested.

Findings of Emergency:

(1) **Adding the four Appendix A Core Conditions:**

Early detection and timely diagnosis of certain congenital genetic disorders impact health outcomes for newborns, reducing the mortality and morbidity from certain heritable disorders. Beginning July 1, 2001, Maine began mandatory newborn testing to include nine disorders and, because of the importance of screening early detection and treatment and coordination of services for long-term care, the Maine CDC Newborn Screening Program, with the support of Maine's Joint Advisory Committee for Maine Newborn Screening (JAC), has since continued to expand the panel of disorders and revise requirement for screenings for certain conditions to be consistent with the U.S. DHHS Recommended Universal Screening Panel (RUSP). Disorders on the RUSP are chosen based on evidence that supports the potential net benefit of screening the ability to screen for the disorder, and the availability of effective treatments.

These four conditions were added to the RUSP in the following years:

- Pompe (2013)
- MPS-1 (2015)
- X-ALD (2015)
- SMA (2018)

The Maine Joint Advisory Committee for Newborn Bloodspot Screening recommended that the Department add Pompe, MPS-1 and X-ALD to the Core Conditions for screening, in October 2018 and in May 2019 recommended adding SMA.

The Department has determined that adding these four conditions for newborn screening immediately is necessary to avoid an immediate threat to public health, safety or general welfare, as it will reduce mortality and morbidity from certain heritable conditions.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

(2) **Increasing the filter paper fee:**

This fee increase is necessary to offset anticipated costs corresponding to the added conditions (i.e., genetic clinic contracts, resource material, follow-up services and other related program operations.)

This emergency routine technical/emergency major substantive rule will take effect immediately upon filing with the Secretary of State's office. 5 MRS §8002(3-A).

The emergency routine technical rule will be in effect for up to ninety (90) days, in accordance with 5 MRS §8054(3). To avoid any lapse in policy, the Department is concurrently engaged in the routine technical rulemaking process.

The emergency major substantive rule provision (Section 14-Fees), in accordance with 5 MRS §8073, may be in effect for up to 12 months, or until the Legislature has completed review. Pursuant to 5 MRS §8072, the Department is concurrently involved in rule making procedures so that it can provisionally adopt the major substantive rule and submit it to the Legislature for its review and approval.

Basis statement:

This rule is a routine technical rule, EXCEPT for Section 14 (Fees), which is a major substantive rule, pursuant to 5 MRS §8071(3)(B).

Emergency Routine Technical Rule Changes: The Department is adding the following to APPENDIX A, Core Conditions, **with an effective application date of April 1, 2021:**

- Mucopolysaccharidosis Type 1 (MPS-1)
- Pompe
- Spinal Muscular Atrophy (SMA)
- X-linked Adrenoleukpdysrophy (X-ALD)

Emergency Major Substantive Rule Changes: The filter paper fee is being increased from \$110/per infant tested, to \$220/per infant tested in Section 14 – Fees, **with an effective application date of April 1, 2019.**

Fiscal impact of rule:

The additional conditions will increase the costs for contracted NBS testing services. Consistent with the national cost for lab services, the 100% increase in the cost to purchase the required NBS filter paper is anticipated to offset additional laboratory charges that the Department estimates to be close to \$500,000, and other related cost increases (i.e. genetic clinic contracts, resource material, follow-up services and other related program operations) corresponding to the additional new conditions on the bloodspot screening panel. The Department provided 30-days' notice, before it imposes this cost increase.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention (Maine CDC)**
Umbrella-Unit: **10-144**
Statutory authority: 20-A MRS §210
Chapter number/title: **Ch. 283**, Newborn Bloodspot Screening Rule
Filing number: **2021-118**
Effective date: 6/1/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Early detection and timely diagnosis of certain congenital genetic disorders impact health outcomes for newborns, reducing the mortality and morbidity from certain heritable disorders. Beginning July 1, 2001, Maine began mandatory newborn testing to include nine disorders, and because of the importance of screening, early detection and treatment, and coordination of services for long-term care, the Maine CDC Newborn Bloodspot Screening Program, with the support of Maine's Joint Advisory Committee for Maine Newborn Screening (JAC), has since continued to expand the panel of disorders and revise requirements for screenings for certain conditions to be consistent with the U.S. DHHS Recommended Universal Screening Panel (RUSP). Disorders on the RUSP are chosen based on evidence that supports the potential net benefit of screening, the ability to screen for the disorder, and the availability of effective treatments.

The Department is proposing to add the following conditions listed for Maine's newborn bloodspot screening (NBS) panel in the rule's Appendix A (Core Conditions), to be effective April 1, 2021, to allow for laboratories to accommodate these additional conditions. These four conditions were added to the RUSP in recent years, and the JAC has approved adding all four conditions to this Maine rule.

- Mucopolysaccharidosis Type I (MPS-1)
- Pompe
- Spinal Muscular Atrophy (SMA)
- X-linked Adrenoleukodysrophy (X-ALD)

Major Substantive Proposed Rule Changes: Additionally, the Department is proposing a major substantive rule change to increase the filter pay fee from \$110 to \$220, in order to off-set the cost of testing these four additional conditions.

On March 11, 2021, the Department adopted an Emergency Routine Technical/Major Substantive Rule with these changes to the fee and also adding the four conditions. Although the emergency rule was effective on March 11, 2021, the changes to the fee and also adding the four conditions had an effective application date of April 1, 2021, to allow impacted parties to prepare for the financial cost increase and to allow laboratories to adjust to these changes. The purpose of this rulemaking is to make permanent the changes made in the Emergency routine technical rule and to provisionally adopt the Major Substantive Rule.

Basis statement:

This rule is a routine technical rule, EXCEPT for Section 14 - Fees, which is a major substantive rule provision, pursuant to 5 MRS §8071(3)(B).

On March 11, 2021, the Department adopted, and filed with the Secretary of State's office, an emergency Routine Technical/Major Substantive ch. 283 (*Newborn Bloodspot Screening Rule*) rule. The emergency routine technical rule changes can be effective for no more than 90 days, consistent with 5 MRS §8054(1). Accordingly, the emergency routine

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

technical changes will have no legal effect after June 9, 2021. The emergency major substantive rule changes can be effective for up to 12 months or until the Legislature has completed its review, as provided by 5 MRS §8072.

On March 17, 2021, the Department filed with the Secretary of State's office a proposed rulemaking to make the changes provided for in the hybrid emergency routine technical/major substantive rule.

This rulemaking permanently adopts the emergency routine technical rule changes, as shown below.

In addition, this rulemaking provisionally adopts the emergency major substantive rule changes. The Department will proceed to submit the provisionally adopted major substantive rule changes to the Legislature for its review and approval. Pending that review and approval, the emergency major substantive rule changes will remain in effect.

Routine Technical Adopted Rule Changes:

The Department expanded the conditions on Maine's newborn bloodspot screening panel to include the following conditions to APPENDIX A, Core Conditions, in this rule. These conditions were added on March 11, 2021 by emergency rule for 90 days, pursuant to 5 MRS §8072:

- Mucopolysaccharidosis Type 1 (MPS-1)
- Pompe
- Spinal Muscular Atrophy (SMA)
- X-linked Adrenoleukodysrophy (X-ALD)

Early detection and timely diagnosis of certain congenital genetic disorders impact health outcomes for newborns, reducing the mortality and morbidity from certain heritable disorders. Beginning July 1, 2001, Maine began mandatory newborn testing to include nine disorders and, because of the importance of screening, early detection and treatment, and coordination of services for long-term care, the Maine CDC NBSP, with the support of Maine's Joint Advisory Committee for Maine Newborn Screening (JAC), has since continued to expand the panel of disorders and revise requirements for screenings for certain conditions to be consistent with the U.S. DHHS Recommended Universal Screening Panel (RUSP). Disorders on the RUSP are chosen based on evidence that supports the potential net benefit of screening, the ability to screen for the disorder, and the availability of effective treatments.

These four conditions were added to the RUSP in the following years:

- Pompe (2013)
- MPS-1 (2015)
- X-ALD (2015)
- SMA (2018)

The Maine Joint Advisory Committee for Newborn Bloodspot Screening recommended that the Department add Pompe, MPS-1 and X-ALD to the Core Conditions for screening, in October 2018, and in May 2019, the Committee recommended adding SMA.

The Department adopted the four additional conditions to this rule to reduce mortality and morbidity from certain heritable conditions.

Major Substantive Rule Changes Provisionally Adopted:

Increasing the filter paper fee:

This fee increase is necessary to off-set anticipated costs corresponding to the added conditions (i.e. genetic clinic contracts, resource material, follow-up services and other related program operations).

The emergency adoption of the routine technical and major substantive rule changes became effective on March 11, 2021. 5 MRS §8002(3-A).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Fiscal impact of rule:

The additional conditions will increase the costs for contracted NBS testing services. Consistent with the national cost for lab services, the 100% increase in the cost to purchase the required NBS filter paper is anticipated to offset additional laboratory charges that the Department estimates to be close to \$500,000, and other related cost increases (i.e. genetic clinic contracts, resource material, follow-up services and other related program operations) corresponding to the additional new conditions on the bloodspot screening panel. The Department provided 30-days' notice, before it imposes this cost increase.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §42; 36 MRS 5219-DD
Chapter number/title: **Ch. 297**, Dental Care Access Credit Program Rule
Filing number: **2021-221**
Effective date: 11/3/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is amending the Maine CDC *Dental Care Access Credit Program Rule*. The Dental Care Access Credit Program provides limited credits against state income tax liability to eligible dentists practicing full time in underserved areas in Maine.

Basis statement:

The Department of Health and Human Services, Maine CDC (the Department), advertised a proposed rulemaking on May 19, 2021 to amend an existing rule, 10-144 CMR ch. 297, *Dental Care Access Credit Program Rule*. A 30-day public comment period was posted from May 19 through June 18, 2021, no comments were received.

The Department is adopting updates and clarifying requirements for the Dental Care Access Credit Program Rule. These changes include specifying the application-submission deadline, establishing when the applications process ends, outlining the competitive order of receipt process for initial applicants, and extending the certification period for eligible dentists, following the deadline for applications. The Department is also adopting updated responsibilities for certificate holders and further clarification of the Department's notification process of certificate award recipients. These rule amendments align the rule with statutory changes in 36 MRS § 5219-DD. The Dental Care Access Credit Program provides limited credits against state income tax liability to eligible dentists practicing full time in underserved areas in Maine.

Fiscal impact of rule:

There is no anticipated fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §42; 22-A MRS §205; 36 MRS §5215-LL
Chapter number/title: **Ch. 298**, Primary Care Tax Credit Certification Rule
Filing number: **2021-201**
Effective date: 10/12/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting changes to the *Primary Care Tax Credit Certification Rule*. The Primary Tax Credit Program is purposed to recruit and retain professionals who provide access to primary health care in underserved areas of Maine.

Basis statement:

The Department of Health and Human Services, Maine CDC (the Department), advertised a proposed rulemaking on May 19, 2021 to amend an existing rule, 10-144 CMR ch. 298, *Primary Care Tax Credit Certification Rule*. A 30-day public comment period was posted from May 19 through June 18, 2021, no comments were received.

The Primary Care Tax Credit Program is purposed to recruit and retain professionals who provide access to primary health care in underserved areas of Maine. The Department of Health and Human Services, Maine CDC is adopting changes to the *Primary Care Tax Credit Rule*, in order to clarify application requirements and align with statutory changes in 36 MRS §5219-LL. These amendments reflect current processes and standards in a clearer way.

Fiscal impact of rule:

There is no anticipated impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8), 3104(1); 5 MRS §8054; PL 116-260
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #217E: Section 999-3** (Charts), Increases Pursuant to PL 116-260
Filing number: **2021-032**
Effective date: 2/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

This emergency rule implements increases to the maximum and minimum allotments from January 1, 2021 through June 30, 2021. As a result, Food Supplement benefits will increase for some households.

An emergency rule change is necessary to remain in compliance with the federal law. The *Consolidated Appropriations Act, 2021* (PL 116-260) requires that Food Supplement Program maximum and minimum allotments be increased by 15 percent for the period of January 1, 2021 through June 30, 2021. Food and Nutrition Services (FNS) provided the exact figures and guidance in a December 28, 2020 memo.

Findings of Emergency

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary to immediately provide this essential support during the current health emergency and in order to ensure that Food Supplement benefits are issued appropriately, accurately, and in a timely fashion consistent with federal law. Even prior to the pandemic, Maine had serious challenges with food insecurity. COVID-19 has led to an increase in Maine's Seasonally adjusted unemployment rate of 1.9 to 7 percentage points, or 12,252 to 48,672 additional Maine residents unemployed (<https://www.maine.gov/labor/cwri/laus.html>). Furthermore, it has resulted in increased food insecurity (<https://www.cnn.com/2020/08/05/business/grocery-prices-rising/index.html> and <https://www.foxnews.com/food-drink/quarter-americans-food-insecurity-amid-coronavirus-pandemic-survey-suggests>) and "put an unimaginable amount of stress on Maine's food industry" according to the Maine Grocers and Food Producers Association (<https://www.mgfpa.org/maine-dep-delays-enforcement-of-polystyrene-foam-and-plastic-bag-bans/>). The 15 percent increase in the minimum and maximum benefit levels helps all SNAP recipients, and particularly targets the neediest SNAP recipients who already received the maximum allotment for their household size. This is roughly one third of Maine SNAP 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 by providing additional food security during this public health emergency. Furthermore, non-compliance with this federal change could result in federal penalties or loss of federal funds at a time when the state is facing serious budget challenges. Following this emergency rulemaking, which is effective for 90 days, the Department shall immediately pursue proposed routine technical rulemaking for these changes, which shall provide notice and opportunity for the public to comment, and then finally adopt the rule changes pursuant to 5 MRS §8052. The *Consolidated Appropriations Act* was enacted on December 27, 2020, requiring changes to be effective January 1, 2021. Accordingly, the Department is adopting this emergency rule to

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

apply retroactively, effective January 1, 2021, to Food Supplement benefit amounts. 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.

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 \$8,300.00 to \$50,000.00 for Federal Fiscal Year 2021. These same changes will result in an estimated additional \$2,619,000.00 to \$15,717,000.00 in federal funds flowing to Maine residents and grocers.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8), 3104(1); 5 MRS §8054; PL 116-260
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #219E** (Temporary Student Policy); **Section 444-7**, Households with Special Circumstances, Students
Filing number: **2021-042**
Effective date: 2/18/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

This emergency rule implements expanded eligibility for post-secondary students from January 16, 2021 through any certification period begun during the COVID-19 Public Health Emergency (PHE) or within 30 days of the date the COVID-19 PHE is terminated. This temporary expansion of eligibility for students changes the previous restriction on student eligibility for Food Supplement Program benefits. 7 .SC §2015(e) and 7 CFR §273.5. As a result, Food Supplement benefits will be available to more individuals.

An emergency rule change is necessary to remain in compliance with federal law. The *Consolidated Appropriations Act, 2021* (PL 116-260) Section 702(e) requires that students enrolled at least half-time in an institution of higher education and are eligible for work study or with an expected family contribution of \$0 are not per se ineligible for Food Supplement Program benefits based on their student status. This expansion of eligibility is effective for any certification period in effect between January 16, 2021 and until 30 days after the COVID-19 PHE ends.

This emergency rulemaking is distinct from 217E which was implemented on an emergency basis on February 1, 2021, though both arise from the same *Consolidated Appropriations Act, 2021*.

Findings of Emergency

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary to immediately provide this essential support during the current health emergency and in order to ensure that Food Supplement benefits are issued appropriately, accurately, and in a timely fashion consistent with federal law. Even prior to the pandemic, Maine had challenges with food security. COVID-19 has led to an increase in Maine’s Seasonally adjusted unemployment rate of 1.9 to 7 percentage points, or 12,252 to 48,672 additional Maine residents unemployed (<https://www.maine.gov/labor/cwri/laus.html>). COVID-19 has increased food insecurity across the country, including Maine (<https://www.cnn.com/2020/08/05/business/grocery-prices-rising/index.html> and <https://www.foxnews.com/food-drink/quarter-americans-food-insecurity-amid-coronavirus-pandemic-survey-suggests>). Furthermore, “College students are among those struggling the most to make ends meet while they pursue education to achieve greater economic security for themselves and their families.” (<https://bangordailynews.com/2020/12/26/opinion/contributors/we-all-have-a-role-to-play-in-ending-hunger-in-maine/>). The expanded student eligibility helps ease the burden for these students and provides an economic boost for local grocers.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

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 by providing additional food security during this public health emergency. Furthermore, non-compliance with this federal mandate could result in federal penalties or loss of federal funds at a time when the state is facing serious budget challenges. Following this emergency rulemaking, which is effective for 90 days, the Department shall immediately pursue proposed routine technical rulemaking for these changes, which shall provide notice and opportunity for the public to comment, and then finally adopt the rule changes pursuant to 5 MRS §8052.

The *Consolidated Appropriations Act* was enacted on December 27, 2020, requiring expanded student eligibility be implemented no later than January 16, 2021. Food and Nutrition Services (FNS) provided the final guidance in a February 2, 2021 memo. Accordingly, the Department is adopting this emergency rule to apply retroactively, effective January 16, 2021, to Food Supplement eligibility. 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.

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 \$24,552 per year. These same changes will result in an estimated additional \$2,316,816 per year in federal funds flowing to Maine residents and grocers.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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), 3104(1); 5 MRS §8054; PL 116-260, PL 117-2
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #217A: Section 999-3** (Charts), Increases Pursuant to PL 116-260, PL 117-2
Filing number: **2021-082**
Effective date: 5/1/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule change implements increases to the maximum and minimum allotments from January 1, 2021 through September 30, 2021. As a result, Food Supplement benefits would increase for some households. Furthermore, it increases eligibility thresholds. As a result, more households are eligible for Food Supplement benefits.

A rule change is necessary to remain in compliance with Division N, Title VII(A) ch. 1 §702(a) of *The Consolidated Appropriations Act, 2021* (PL 116-260), amended by *The American Rescue Plan Act, 2021* (PL 117-2) which requires that Food Supplement Program maximum and minimum allotments be increased by 15 percent for the period of January 1, 2021 through September 30, 2021. Food and Nutrition Services (FNS) provided the exact figures and guidance in a December 28, 2020 memo.

The Department implemented these changes on an emergency basis on February 1, 2021 effective January 1, 2021, in Rulemaking No. FS217E. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent and extend them through September 30, 2021.

This adopted rule change differs from the emergency and proposed versions in that the time frame for the 15 percent increase is extended through September 30, 2021. This extension is necessary to comply with Title I(B) §1101(a) of *The American Rescue Plan Act of 2021* (PL 117-2) which passed during the comment period.

Additionally, a rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(a)(3), which requires that Food Supplement Program income limits be updated each year, effective October 1. Non-compliance could result in federal penalties or loss of federal funds.

Maine exercises an option for Broad Based Categorical Eligibility under 7 C.R §273.2(j)(2) which includes a 185% Federal Poverty Level (FPL) test. Since this figure is not included in the figures updated each federal fiscal year per 7 CFR §273.9(a)(4), it is updated as soon as the FPLs are published. This year, they were published at <https://aspe.hhs.gov/poverty-guidelines> on January 13. See also, Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7,732 (February 1, 2021) <https://www.federalregister.gov/documents/2021/02/01/2021-01969/annual-update-of-the-hhs-poverty-guidelines>. The Department is making this change retroactive to January 13, 2021. 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.

Finally, the rule change removes end dates from the last set of figures of each chart to alleviate unnecessary future rule making should the figures remain the same. Some charts

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

are, also, condensed to more clearly show where figures have been retained for an extended period of time.

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 \$8,300.00 to \$75,000.00 for Federal Fiscal Year 2021. These same changes will result in an estimated additional \$2,619,000.00 to \$23,571,000.00 in federal funds flowing to Maine residents and grocers.

Increases in the income thresholds for eligibility may result in additional households being eligible for state or federally funded benefits. The number of households and amount of benefits cannot be determined. These potential increases will be absorbed by existing budgeting.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8), 3104(1); PL 116-260
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #219E**
(Temporary Student Policy): **Section 444-7**, Households with Special Circumstances, Students
Filing number: **2021-093**
Effective date: 5/19/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule implements expanded eligibility for post-secondary students from January 16, 2021 through any certification period begun during the COVID-19 Public Health Emergency (PHE) or within 30 days of the date the COVID-19 PHE is terminated. This temporary expansion of eligibility for students changes the previous restriction on student eligibility for Food Supplement Program benefits. 7 U.S.C. §2015(e) and 7 CFR§273.5. As a result, Food Supplement benefits will be available to more individuals.

A rule change is necessary to remain in compliance with *The Consolidated Appropriations Act, 2021* (PL 116-260) Division N, Title VII Nutrition and Agriculture Relief, Subtitle A Nutrition, Section 702(e) which requires that students who are enrolled at least half-time in an institution of higher education and are eligible for work study or with an expected family contribution of \$0 are not per se ineligible for Food Supplement Program benefits based on their student status. This expansion of eligibility is effective for any certification period in effect between January 16, 2021 and until 30 days after the COVID-19 Public Health Emergency (PHE) ends.

This rulemaking is distinct from 217A which was effective May 1 2021, though both arise from the same *Consolidated Appropriations Act, 2021*.

The Department implemented these changes on an emergency basis on February 18, 2021 effective January 16, 2020, in Rulemaking No. FS219E. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

The Consolidated Appropriations Act was enacted on December 27, 2020, requiring expanded student eligibility be implemented no later than January 16, 2021. Food and Nutrition Services (FNS) provided the final guidance in a February 2, 2021 memo. Accordingly, the Department is adopting this rule change to apply retroactively, effective January 16, 2021, to Food Supplement eligibility. 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.

Additionally, the Department regularly reviews rules for readability, consistency, and contemporaneousness. To these ends, the following changes are being made:

- 1) Formatting and enumeration are updated for ease of reference and consistency with other sections of this manual, and other Office for Family Independence manuals;
- 2) The list of exemptions to student ineligibility is reorganized to list them from the easiest to verify and apply to the most cumbersome;
- 3) Incorrect citations are corrected;

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- 4) Redundant conjunctions are removed;
- 5) Names of programs are updated or added as needed;
- 6) Gender specific pronouns are replaced with gender neutral ones;
- 7) The Subsection on treatment of income is dramatically reworded to read more like a list of requirements and less like an instruction manual for Department staff, and is updated to minimize redundancies; and
- 8) A detailed example that has caused some confusion about income and expense averaging strategies is removed, and the process for that averaging is consolidated to its own paragraph for emphasis.

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 \$24,552 per year. These same changes will result in an estimated additional \$2,316,816 per year in federal funds flowing to Maine residents and grocers.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8)
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #218** Updates to Card Replacement and Benefit Use and Expungement **Section FS 777-7**, Administrative Procedures, Electronic Benefit Transfer (EBT)
Filing number: **2021-147**
Effective date: 8/2/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

This rule change has three components: expungement, purchasing options and card replacement. None of these changes increase the administrative burden on the Department, or participants. The changes to purchasing and replacement will, in fact, reduce the burden.

A rule change is necessary to remain in compliance with 7 USC ch. 51 §2016(h)(12)(C) as amended by PL 115-334 §4006 and subsequent amendments to 7 CFR §274.2(i). Each has reduced the threshold for expungement of unused benefits to nine months after issuance or immediately (without notice) if the Department has verified that all household members are deceased. Expungement of benefits for households in which all members are deceased will be implemented upon adoption of this rule. Expungement of benefits for households that must be given notice will be implemented as soon as possible allowing for noticing requirements. The basic process of noticing and expungement continues. The notice will now be sent after 240 days rather than 90, and the expungement will take place after 274 days instead of 365. Expungement will take place more rapidly when the Department has verified that all household members are deceased and the benefits will be rendered inaccessible immediately upon verification.

Additionally, purchasing power is extended to online purchases including delivery or curbside pick-up when a physical point of sale “swipe” of the card is not the best option. The Department is modifying this section to reflect the ability of participants to use EBT accounts to purchase approved foods, seeds, and seedlings from online platforms. This contactless purchasing expands access and supports the overall safety and well-being of Food Supplement recipients especially at times when travel may be challenging or impossible, or there is a heightened risk of illness such as a national public health emergency. Initially, Maine will be participating as a demonstration project under 7 U.S.C. §2016(k)(4) with the intent of full participation under paragraph 1 of the same.

Changes are also being made to card replacement. The process of requesting replacement cards will be unchanged other than participants will be able to secure their third and fourth replacement cards with the same ease as the first and second in a 12-month period. Previously, three replacement cards in a 12-month period were determined “excessive”. The Department is increasing that threshold to five cards in a 12-month period consistent with 7 CFR§274.6(b)(5). This increase improves access to benefits for individuals and reduces the administrative burden on the Department and its vendor. This change is being made

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

retroactively to April 23, 2020 to coincide with the expiration of Food and Nutrition Service's Waiver number 2180009. 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.

No fees will be charged for any replacement cards. This rule change removes any reference to collecting a fee for card replacement consistent with current practice. The cost of implementing a fee collection procedure is anticipated to exceed any savings that would result from such collections. Additionally, references to contacting a local office are being generalized to contacting the Office for Family Independence (OFI). This change reflects the statewide processing and accessibility of OFI staff and removes a geographic burden for those requesting replacement cards.

Finally, the following stylistic and grammatical changes are being made to modernize the manual and enhance readability.

- 1) Minor corrections are being made to typographical errors.
- 2) Numbering and lettering of subsections, paragraphs, etc. is being added or standardized as part of an ongoing effort to standardize them not only within this manual but across OFI manuals and facilitate easier citations and cross references.
- 3) Several terms that had been used interchangeably are being consolidated to consistent terms with preference given to terms that are defined within the manual.
- 4) Whole numbers through ten are represented only by writing out the word. All other figures are represented, only, in numerical form. This change is part of an Office wide standardization effort to improve the flow of the manual by not representing each figure twice.
- 5) Some sentences are being modified to spell out responsibilities and responsible parties instead of reading like an instruction manual for Department staff.
- 6) Gender specific pronouns are being replaced with gender neutral ones as part of an Office wide effort toward inclusivity.
- 7) Redundant language is removed where possible to enhance the readability of the manual.

While no impact to businesses was referenced at the proposed stage of this rulemaking, the ability to purchase food, seeds and seedlings from retailers already able to process online orders as a result of this rule may decrease the amount of Food Supplement Benefits spent at other retailers. However, the increased benefit for participants to engage in contactless purchasing outweighs this setback.

Furthermore, expunging benefits three months sooner, may result in decreased spending power for seasonal workers who have their income averaged over a 12-month period but need to bank their benefits for use during the lean season. Such individuals may become more dependent on other sources of aid, such as General Assistance during this lean period. However, this change is federally mandated and the potential financial penalties for non-compliance outweigh any potential expense.

Fiscal impact of rule:

Direct costs to the Department include the cost of rulemaking activity, and necessary technology changes such as changes to ACES and EPPIC (all of which are covered by the existing budget for such changes). Any impact to the cost of benefits would be minimal.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8)
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #216** Interview Waivers, **Sections FS 222-4, 444-5, 666-9 and 999-1**
Filing number: **2021-155**
Effective date: 8/15/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule change aligns Maine’s policy with practice approved under PL 116-159 and the Food and Nutrition Services (FNS) waiver serial number 2190019 approved on October 21, 2020.

PL 116-159 §4603(a)(1)(A)(iii) allows states to adjust interview requirements consistent with the adjustments provided in the Food and Nutrition Service’s March 26, 2020, blanket approval for adjusting interview requirements. Consistent with FNS guidance at the time, on March 27, 2020 the State of Maine notified the Secretary of Agriculture of its determination to exercise the option to not require a household to complete an interview prior to application approval or recertification through June 30, 2021, provided the applicant’s identity has been verified and all other mandatory verifications in 7 CFR§273.2(f)(1) have been completed. On April 30, 2021, FNS released a memo extending this option. Subsequently, the State of Maine notified FNS of its determination to adopt that extended time frame. This option was approved on May 26, 2021 and extended the interview waiver to the earlier of December 31, 2021, or the end of the month after the month in which the public health emergency (PHE) declaration related to COVID-19 is lifted by the U.S. Secretary of Health and Human Services.

Waiver 2190019 allows the Department to recertify households with no earned income, in which all adult members are elderly or disabled without conducting an interview. This process has been determined effective and efficient by both Maine’s Department of Health and Human Services (DHHS), and the federal Food and Nutrition Services. The current waiver is set to expire May 31, 2022. At this time the Department plans to seek an extension.

References to “appearing for” or “attending” an interview are changed to “complete” to reflect the fact that when interviews are conducted, they may not be in person. This change is consistent with Maine’s approved state plan and current practice.

This rule change reduces the administrative burden on Department staff and increases access to Food Supplement benefits for some of Maine’s most vulnerable residents. It improves food security for these individuals and decreases the likelihood that these particularly vulnerable residents would come into a DHHS office during a public health crisis.

The Department is adopting this rule with a retroactive application to December 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.

The following additional changes are being made to modernize the manual and enhance readability.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- 1) References to “recertification” and “redetermination” are clarified to either “recertification form” when referring to the document, or “eligibility review” when referring to the overall process.
- 2) Minor corrections are made to typographical errors.
- 3) Numbering and lettering of Subsections, Paragraphs, etc. is added or standardized as part of an ongoing effort to standardize them not only within this manual but across OFI manuals and facilitate easier citations and cross references.
- 4) Several terms that had been used interchangeably are consolidated to consistent terms with preference given to terms that are defined within the manual. E.g. “client” and “participant” have been stricken and replaced with one or more of the following terms— “household” when referring to a group defined as such in FS 111-1, “applicant” when referring to an individual defined as such in FS 999-1 as amended by this rulemaking, “recipient” when referring to an individual collecting a benefit, or “resident” when referring to someone who lives in a particular facility. The use of each of these terms has also been reviewed to ensure the correct meaning is conveyed in each instance. Likewise, the term “individual” has been replaced with one of the defined terms when a more precise term is appropriate.
- 5) FS 222-4 is updated to eliminate the option for Department staff to require a face to face interview for Food Supplement applications and annual eligibility reviews.
- 6) Whole numbers through ten are represented only by writing out the word. All other figures are represented, only, in numerical form. This change is part of an Office wide standardization effort to improve the flow of the manual by not representing each figure twice.
- 7) In FS 222-4(3), language is added specifying that the Department shall notify the household of its rights and responsibilities annually even if no interview is conducted.
- 8) In FS 222-4(4), references to issue resolutions are changed to clarifying questionable information. This change shifts the language to a term defined within the manual and provides greater clarity.
- 9) Wording changes are made throughout to active voice when possible to aid in readability and to phrase the manual as objective standards, not an instruction manual for OFI workers.
- 10) In FS 444-2 references to drug addiction or alcoholic rehabilitation are updated to Substance Use Disorder treatment.
- 11) In FS 444-2, a redundant reference to a work requirement exception was removed as it is addressed in FS 111-5.
- 12) Language is added to update the names of Departments and Agencies referenced.
- 13) Gender specific pronouns are replaced with gender neutral ones as part of an Office wide effort toward inclusivity.
- 14) A requirement that the household provide necessary verifications is added to Section FS 666-9(1) for clarity.
- 15) Clarification is added throughout Section FS 666-9 that the Department may make a determination that the household is ineligible or still eligible, and, for what benefit level, rather than implying that following the process will always result in continued eligibility.
- 16) Redundant language is removed where possible to enhance the readability of the manual.
- 17) Several terms in Section FS 999-1 are removed or reworded based on how or if they are used elsewhere in the manual.
 - a) “Alcohol & Drug Centers” is changed to “Centers for the Treatment of Substance Use Disorders”. The definition is modernized. Other terms that refer to these

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

centers, in portions of the chapter that have not been updated as of this rulemaking are added and reference this definition.

- b) “Case Name” is removed.
 - c) In the definition of “Mass Changes” the outdated reference to AFDC is updated to TANF.
 - d) “Mixed Funded Household” is removed.
 - e) “Prospective Budgeting” is removed.
 - f) “Shelter for Battered Persons” is added as an alternative to “Shelter for Battered Women and Children”. “Battered Persons” is the preferred term, is consistent with federal regulations, and is gender neutral. However, not all instances have been updated in the manual through this rule change.
 - g) The definitions for both “Shelter for Battered Persons” and “Shelter for the Homeless” are modernized.
 - h) The definition of “Six-Month Report” is updated to reflect some of the terminology changes above and to allow for one during the certification period following the initial application.
 - i) “Timely Notice” is removed. (“Advance Notice” is used consistently throughout the manual.)
- 18) The definition of “Applicant” is updated to clarify that it is the individual for whom benefits are requested, regardless of whether any benefits are actually issued.
- 19) A definition of “Assistance Group” is added.

The definition of “Documentation” is modified in two ways. First, to reflect not only documentation made by Department staff in the case record, but documentary verifications provided by individuals, as both uses of the term permeate other sections of the manual. Secondly, to expand documentation to not only include written documents, but electronic media such as audio recordings, digital photographs, and the like that are commonly provided as verification.

This adopted rule varies from the proposed as follows: The end date for the adjustment of interview requirements originally pursuant to PL 116-159 is extended beyond June 30, 2021 to the earlier of December 31, 2021, or the end of the month after the month in which the public health emergency (PHE) declaration related to COVID-19 is lifted by the U.S. Secretary of Health and Human Services; References to PL 116-159 were removed as the changes originally made under that authority have been extended; references to the household requesting an interview were clarified as such, where previously they simply said “requests one”; In Section 666-9(6)(A) the citation to “timely review” is clarified to “in 666-9(2)” from the more generic “above”.

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 (all of which are covered by the existing budget for such changes).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: **10-156**
Statutory authority: 22 MRS §§ 42(1) & 7 CFR §273-24(f)
Chapter number/title: **Ch. 301**, Food Supplement Program, **FS Rule #220A:** ABA WD FFY 2022, **Section 999-2:** Geographic Exemptions from ABAWD Work Requirements
Filing number: **2021-156**
Effective date: 10/1/2021
Type of rule: Routine Technical
Emergency rule: No

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

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.

7 CFR273.24(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.

This rule making implements ABAWD geographic state-wide waiver 2190025 approved April 28, 2021 pursuant to 7 CFR§273.24(f)(2) and Section 6(o) of the Food and Nutrition Act of 2008. This waiver excludes all Maine residents from ABAWD requirements, for the period October 1, 2021 through September 30, 2022. Reference to past exemptions under expired authority is removed.

The Department pursued and Food and Nutrition Services approved the waiver based on the Department of Labor Trigger Notice No. 2020-38, effective October 4, 2020, showing that, state-wide, Maine qualified for extended unemployment benefits.

This rule change enhances nutritional stability and consistency for thousands of Maine households at a time of financial and health uncertainty.

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 \$109,512 which will be absorbed with current General Fund budgeting.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office for Family Independence**
Umbrella-Unit: **10-144**
Statutory authority: 22 MRS §§ 42(1), 3104; 5 MRS §8054; 7 CFR §273-9(d)
Chapter number/title: **Ch. 301**, Food Supplement Program: **FS Rule #222E, Section 999-3**, Charts
Filing number: **2021-199**
Effective date: 10/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

This emergency rule implements updates to: maximum and minimum allotments; the standard, homeless and maximum shelter deductions; and asset limits for the Food Supplement program as of October 1, 2021. As a result, Food Supplement benefits will change for some households.

An emergency 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 FY2022 provided more generous income limits, maximum and minimum allotments, standard deductions, maximum shelter deduction, homeless shelter deduction, asset limits, and 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 increase 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.

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.

Findings of Emergency

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, pursuant to 5 MRS §8054, the Department finds that emergency rulemaking 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 necessary to administer the Food Supplement Program which supports the health and general welfare of more than 200,000 Maine residents receiving Food Supplement (including more than 75,000 children and more than 30,000 over the age of 60) and the owners and employees of the businesses where these benefits are spent. Furthermore, this year's changes all serve to increase the Food Supplement benefit amount for recipient households. Delaying these increases would pose a threat to the health and welfare of recipients who depend on these benefits to purchase nutrient rich foods that can help them achieve and maintain good health and reduce their risk of chronic disease throughout all stages of life.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

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 \$748,242 for Federal Fiscal Year 2022. These same changes will result in an estimated additional \$99,027,204 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, 2021 to December 31, 2021
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) and (8), 3104(13),(17)
Chapter number/title: **Ch. 301**, Supplemental Nutrition Assistance Program (SNAP) Rules (formerly Food Supplement Program), **SNAP Rule #212A**: 2021 Omnibus rule change (*many sections*)
Filing number: **2021-256**
Effective date: 12/30/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule change implements many changes required by state statute or federal regulation. It aligns Maine policy with various federal waivers and options. It makes non-substantive changes to improve the readability and inclusivity of the manual, reduce the use of stigma inducing language, and update the names of programs such as WIOA and TANF. It corrects various citations.

The Department is changing the terms “Food Supplement” and “Food Supplement Program” to “Supplemental Nutrition Assistance Program” and, by extension, their associated abbreviations to “SNAP”. This change is consistent with the terminology used in federal law and regulation as well as signage and other materials seen throughout the state and nation. Furthermore, PL 2021 ch. 398 part OO made this change throughout Maine’s revised statutes. This change is reflected in the name of the chapter itself and all uses of the terms and abbreviations in sections included in this rulemaking (unless they refer only to a time prior to the statutory change). The “FS” is removed from all section numbers.

The Department is using person first language wherever feasible and replacing terms intended to convey the same meaning with “Substance Use Disorder”. These changes are consistent with PL 2017 ch. 407 part B, PL 2021 ch. 348, and generally accepted best practices. There are occasional exceptions to this effort where it was determined best to keep the language consistent with the relevant federal statute.

The Department is converting some phrases to active voice and simplifying the representation of numbers as part of an ongoing, office-wide effort at standardization and clarity.

The Department is adding clarity to Section 111-1 related to standards and process for determining separate household status.

This rule change aligns the chapter with the approved waiver submitted under the requirements of 22 MRS §3104(17) (as amended by PL 2019 ch. 492 §1). This waiver allows residents of state or county correctional facilities to submit an application for SNAP up to 30 days prior to release, and for the filing date of the application to be the date of release.

The Department is removing references to an application needing to be dated. This change aligns the chapter with 7 CFR §273.2(c)(1)(iii).

The Department is amending the chapter to eliminate disqualifications based on non-compliance with child support orders. This policy was in place as part of a state option authorized under 7 CFR §273.11(q). The Department is choosing to no longer exercise that option. This change is effective December 1, 2021. Retroactive rulemaking is permissible

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

under 22 MRS §42(8) as the change affords this benefit to more residents of the State of Maine and does not adversely impact applicants, participants, beneficiaries, or providers.

The Department is aligning the disqualification periods for Quality Control noncompliance with those found in 7 CFR §273.2(d)(2).

The Department is clarifying, in Section 222-5, that a “reasonable opportunity” to resolve discrepancies is 10 days.

The Department is amending the chapter to eliminate the asset limit for all households effective January 1, 2022. This change is required by PL 2021 ch. 115 and improves access for residents with low income.

The Department is removing language from Section 333-1 excluding the assets of ineligible students, non-citizens, alien sponsors as it is redundant to language in 444-4.

The Department is making a number of changes to the sections on assets. This rule change updates the asset and income lists to reflect new technologies such as non-fungible assets and crypto-currency. It further amends the language related to assets and income excluded by federal statute to reflect the fact that new statutes may be passed excluding certain resources not on the existing list. These resources are often of a temporary nature, such as those created through various legislation associated with COVID-19. To add and remove them from the chapter each time there is a federal law change would be an unnecessary administrative burden and duplicative of action already taken by Congress. Additionally, the acceptable verifications of a good faith effort to sell real property are updated to conform with 7 CFR §273.8(e)(8).

The Department is aligning the look back period for certain felonies with the one required by 7 CFR §273.11(s)(3).

The Department is limiting comparable disqualifications related to disqualifications from other means tested programs to instances where the individual has been found by a court or administrative hearing to have committed an intentional program violation (IPV) or has signed an IPV waiver. Maine is one of only 13 U.S. states or territories to apply comparable sanctions for non-compliance with other program’s requirements. This change aligns Maine with the majority of other SNAP agencies. This policy was in place as part of a state option authorized under 7 CFR §273.11(k). Under that same authority, the Department is choosing to less fully exercise that option.

The Department is amending the work requirement for post-secondary students to allow for weekly hours to be averaged over the month. This change aligns this requirement with other work requirements in the chapter while remaining consistent with 7 CFR §273.5(b)(5).

A more detailed description of the Resource Guide for Families is added to Section 444-5.

The Department is updating Section 555-6 to more clearly and accurately describe the budgeting process. Accordingly, the budgeting worksheet in Section 555-7 that is redundant to the budgeting process outlined in 555-6 without adding clarity is eliminated. The Department is clarifying that, if there is an interruption in or delay of benefits as a result of household action or inaction, benefits for the month the situation is resolved will be prorated to the date of compliance. This change is required as part of Maine’s reinstatement waiver approved August 16, 2021 and guidance provided in Food and Nutrition Services memo index number 88-04.

The Department is cleaning up language in Section 666-6 that was applicable prior to the statewide conversion to simplified reporting. This language is no longer relevant and could reduce the clarity of the current requirements.

The Department is clarifying the reporting requirement related to household income exceeding 130% of the federal poverty level. This change is necessary to align the chapter with the requirements at 7 CFR §273.12(a)(5)(v).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

The Department is clarifying the verification requirements at annual eligibility review. This change is necessary to align the chapter with the requirements at 7 CFR §273.2(f)(8). They improve access for households and reduce the administrative burden for the Department.

The Department is delaying the changes to the expungement deadline adopted as part of Food Supplement Rule Making #218A from September 1, 2021 to September 1, 2022. This change is necessary to comply with changes to 7 CFR part 274 detailed in the Federal Register Vol. 86 No. 143. These changes at the state and federal level are necessary as the national EBT vendor could not make the technology changes necessary to implement the change prior to the original deadline while, at the same time, making the changes necessary to support the various COVID-19 related initiatives.

The Department is adding a definition of public institution to add clarity to the application process in certain circumstances.

The Department is implementing various budgeting figures as required by 7 CFR §273.9(d). It requires that SNAP 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 and minimum allotments, standard deductions, maximum shelter deduction, homeless shelter deduction, asset limits, and 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 increase 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. These updates were made in Food Supplement Emergency Rulemaking #222E. This rulemaking continues these changes beyond December 30, 2021.

As proposed, Section 444-8(6) of this rulemaking would have eliminated the \$0 benefit starting March 1, 2022 and implemented over a 12-month period. Upon further review, the Department recognizes that these households benefit from SNAP Employment and Training supports. Therefore, the \$0 benefit will be retained.

A typographical error in the proposed rulemaking would have the Federal Fiscal Year (FFY) 2021 and 2022 figures in Chart 8 overlap. This error has been corrected by updating the end date of the FFY 2021 figures to September 30, 2021.

The proration of benefits when a household regains eligibility during the certification period will result in a minor decrease in the amount of benefits issued. In balance, these rule changes would be beneficial to both participants and small businesses where they spend their benefits. To the extent that the proration of reinstated benefits may have a minor impact on small businesses, there is no additional administrative burden for the business. The alternative would be to not have the reinstatement waiver which would result in a greater decrease in individual's benefits and their spending power at small businesses.

Fiscal impact of rule:

Direct costs to the Department include the cost of rulemaking activity which is covered by the existing budget for such changes. Most changes will result in reduced administrative costs.

The impact to SNAP benefits as a result of accepting applications from incarcerated individuals would be a minor increase in the prorated benefit amount for month of release. The impact of not applying comparable disqualifications would be another minor increase in the total benefits issued. Federal SNAP benefits are paid directly to merchants and do not pass through State budgets, so this would not have a direct cost to the Department. State-funded

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

SNAP benefits would have a minor increase which would be absorbed with current General Fund budgeting.

Increased issuance as a result of the annually adjusted figures would be significant. State Funded SNAP benefits are estimated to cost an additional \$748,242 for Federal Fiscal Year 2022. These same changes will result in an estimated additional \$99,027,204 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).

The proration of benefits when a household regains eligibility during the certification period would be a minor decrease in the amount of benefit issued. Again, the vast majority of the impact would be on federally funded benefits which pass directly to merchants. In balance, these rule changes would serve as a benefit for both participants and small businesses where they spend their benefits. To the extent that the proration of reinstated benefits may have a minor impact on small businesses, there is no additional administrative burden for the business. The alternative would be to not have the reinstatement waiver which would result in a greater decrease in individual's benefits and their spending power at small businesses.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (18)

Chapter number/title: **Ch. 331**, Maine Public Assistance Manual (TANF - Temporary Assistance for Needy Families), **TANF Rule #117A**, FFY 2022 COLA, application process updates, and Post TANF services budgeting updates: **Introduction and General Definitions; ch. I**, Eligibility Process; **ch. V**, Post TANF Benefits; **ch. IX**, Alternative Aid Assistance Program; **Appendices**

Filing number: **2021-191**

Effective date: 10/1/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

This rule is promulgated to comply with Maine statute 22 MRS §3769-C(1)(D), which requires the Department to increase the Temporary Assistance for Needy Families (TANF) maximum benefit on an annual basis by the amount of the cost of living allowance as determined by the Social Security Administration. The statute also requires the Department to make a related increase to the standard of need, provided the funds are available.

The Department is updating the introductory text to simplify language, pertaining to the receipt of assistance that is counted toward the 60-month lifetime limit.

Additionally, the TANF and MaineCare application processes are being disentangled. The TANF manual specified that all applications for TANF benefits were to be treated as an application for MaineCare. 22 MRS §3790(3-A) as amended by HP 1261 – LD 1774 §6 newly requires the Department of Health and Human Services to accept referrals from an educational institution or program that is part of the University of Maine System; the Maine Community College System; Jobs for Maine’s Graduates; an adult education program; or the career centers as an application for the Parents as Scholars Program with limited conditions. This newly required process conflicted with Maine’s Medicaid State Plan. As such, the Department removed reference to treating the Public Assistance application as a MaineCare application from this chapter.

The previous requirement for Applicants and Participants to appear in-person for interviews and orientation meetings created an unnecessary burden for them, and an administrative burden for the Department and the Department’s contractors. While these in-person meetings may expedite the application process for those able to visit an office in-person, the requirement for most slowed or reduced access. Furthermore, at times of community transmission of illnesses or diseases such as Corona virus or Influenza, or hazardous traveling conditions due to weather, these in-person requirements can pose a risk to the health of Applicants, Participants and staff. These in-person interactions have not been proven to increase program integrity. As such, these requirements were recently reduced in rules TANF C19E, and TANF 114A. Recognizing the benefits of these adjustments, and not having experienced a demonstrable detriment, the Department removed all remaining in-person requirements from the manual.

To strengthen program integrity and reduce confusion, the Department is adding language to ch. V(A) clarifying those children who are eligible for Transitional Child Care

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

(TCC), and the reporting requirements for child care providers receiving TCC payments. The Department is clarifying language regarding TCC overpayment responsibility and recovery procedures as well.

Furthermore, the mileage reimbursement rate for Transitional Transportation Participants is updated to align with the MSEA rate at <https://www.maine.gov/osc/travel/mileage-other-info> and the rate used by other OFI supports such as the Additional Support for People in Retraining and Employment (ASPIRE), Food Supplement Employment and Training (FSET), and Higher Opportunity for Pathways to Employment (HOPE) programs.

Similarly, in compliance with 22 MRS §3762(8)(C), the Chart of Parent Fees and Subsidy Payments is updated based on Federal Poverty Level (FPL) figures published in the Annual Update of the Health and Human Services (HHS) Poverty Guidelines, 86 Fed. Reg. 7,732 (February 1, 2021) <https://www.federalregister.gov/documents/2021/02/01/2021-01969/annual-update-of-the-hhs-poverty-guidelines>. The Department is adopting this provision with a retroactive application to February 1, 2021. 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.

A clarification of good cause as it pertains to cooperation with child support requirements is being added to ch. I(D)(2)(iii).

The Department is updating the text describing the legal foundation for the Alternative Aid program to reflect the current authority and requirement to administer said program.

The Department is updating and adding various cross references for clarity.

The Department is updating the Table of Contents as a result of all proposed changes.

Finally, various changes are being made to formatting, punctuation, and word choice, that do not alter the meaning of the text, but enhance readability and inclusivity.

This rule will not have an impact on municipalities.

Transitional Child Care (TCC) provides a subsidy to eligible families to assist in paying for child care. In fiscal year 2019, it is estimated that over 650 small child care provider businesses received one or more Transitional Child Care payments. The vast majority of providers receiving payments were in-home providers. Overpayments occur for a variety of reasons, including child care provider error, specified relative error, and agency error. The updated language clarifies the reporting responsibilities of specified relatives as well as the child care providers. It also clarifies which party is responsible for the recoupment of an overpayment.

This rule adds reporting requirements for certain changes in enrollment. The Department does not anticipate that this rule would result in any additional recordkeeping or other administrative requirements or costs.

In ch. V(A)(5) the word “issue” has been updated to “divert” as result of public comment received to clarify the intent and circumstance of a TCC benefit paid directly to a child care provider.

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

Fiscal impact of rule:

Direct costs to the Department include the cost of rulemaking activity, updating staff training and resources, and necessary technology changes such as changes to the Automated Client Eligibility System (ACES) (all of which are covered by the existing budget for such changes). The increased TANF benefit amounts would result in an anticipated additional expenditure of \$316,485 per year from the Federal TANF Block Grant for federally funded

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

benefits and \$42,322 per year in State General Funds for state funded benefits. Increased mileage reimbursement is anticipated to result in an addition expenditure of \$25,062 per year from the Federal TANF Block Grant. As a result of the updated income eligibility guidelines for Transitional Child Care there is an anticipated increase to TANF Block Grant expenditures, but this increase is minimal and unable to be determined for currently enrolled households. Additional households may also become eligible, but that number cannot be predicted. All of these expenditures would primarily be realized as income for Maine businesses where they are spent.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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), and 3173-G; 42 U.S.C. §1396r-1; 22 MRS §42(8)
Chapter number/title: **Ch. 332**, MaineCare Rule #MC295 – Updates to **parts 9**, (Special Limited Benefit Groups, **and 18**, Presumptive Eligibility Determined By Hospitals.
Filing number: **2021-092**
Effective date: 5/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The Department is making various substantive and technical changes in Part 9, as well as in Part 18 of the MaineCare Eligibility Manual, 10-144 CMR ch. 332. The primary substantive changes are regarding the presumptive eligibility determination process. The rule implements the legislature’s requirement that presumptive eligibility determinations be permitted for the limited family planning benefit group. It also reduces the penalties associated with performance standards and clarifies requirements for hospital presumptive eligibility determinations. Additionally, the Department regularly reviews policies to ensure clarity and conformity with state and federal Medicaid requirements. The Department is adding clarification to other sections of Parts 9 and 18 of this Manual to clarify eligibility criteria and processes. None of these clarifications make substantive changes to existing eligibility criteria or processes in a way that diminishes beneficiaries’ rights. Indeed, it could be that more beneficiaries are determined eligible for MaineCare services as a result of the new presumptive eligibility process for the limited family planning benefit group (Part 9, Sec. 4).

Within Part 9, Section 1, the Department is making the following changes. References to “HIV/AIDS Waiver” is changed to “Benefit for People living with HIV/AIDS” to align this manual section with the MaineCare Benefits Manual, 10-144 CMR ch. 101 ch. X. Language is added to specify that this benefit is also referred to as the Special Benefit Waiver or SBW. This term is the one used in mailings to applicants and participants and is the name by which they know the program. For clarity, and to lend consistency throughout this Part, the information in the first paragraph is reorganized to first provide a description of the program and discuss eligibility later. Changes also include specifying which type of coverage was being referenced at each step, specifying that action was being taken on benefits not the individual, and removing unnecessary words. For emphasis, the exception allowing an individual to have SBW and DEL so long as DEL is supplementing Part D is moved to its own sentence. The Department is making changes in Subsection 1(A) specifying that this requirement only applies to individuals who qualify for SSI-Related MaineCare based on disability (not age), and reorganizing the paragraph to start with the requirement and then move into ways the requirement can be met. The Assets Subsection is moved before the Income Subsection for consistency with other Parts of the manual and the flow of the eligibility determination process. Language is added to Subsection 1(C) specifying that SSI-Related budgeting procedures (in Part 7) apply. To improve specificity, the due date of premiums is added to the first paragraph of Subsection 2. Subsection 2(A)(1) is amended to clarify that multiple month payments should be made in advance of the due date. In the Example in Subsection 2(A)(1), the figures are updated to

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

current premium amounts. Subsection 2(A)(2) is amended to clarify that notice will be sent to the individual, allowing for e-noticing or mail as opposed to handing it to them. The last paragraph of Subsection 2(A)(3) is amended to clarify that the date in question is the last day of the grace period. Subsection 2(B)(2)(b) is amended to allow for a person other than a relative to be responsible for an individual's premium payments. Subsection 3(A) is amended to clarify that continuous coverage shall only be granted pending a hearing decision if the request for hearing is received during the Adverse Action Notice Period.

In part 9, section 2, the Department is making the following change to clarify that there are, in fact, two distinct Breast and Cervical Cancer programs. A sentence is added to the end of the first paragraph referencing the program available under 10-144 CMR Ch. 708.

In part 9 section 4, the Department is adding language to comply with 22 MRS §3173-G. Specifically, the rule sets forth the conditions for a provider to make a presumptive eligibility determination for the limited family planning coverage group, the process for making such a determination, the duration of the presumptive decision, and the process for securing ongoing eligibility. On September 22, 2020, the Centers for Medicare and Medicaid Services (CMS) approved a State Plan Amendment (SPA) authorizing these changes in the MaineCare program, effective October 1, 2020. Pursuant to 22 MRS §42(8), these changes shall be applied retroactive to October 1, 2020. The changes benefit both providers and MaineCare beneficiaries.

Other changes are part of a standardization of practice across all OFI rules. Enumeration and lettering of subsections, paragraphs, etc. is updated as part of a general effort to make these systems consistent throughout OFI rules and as necessary to accommodate the addition and deletion of material. Cross references are updated where information had been moved as part of a prior rule making. Changes include use of gender inclusive pronouns. Other grammatical and typographical errors are corrected. Redundant terms are removed. References to MaineCare coverage that does not limit its coverage to a specific system or condition are consistently changed to "full MaineCare". This term is familiar to applicants and participants as it is used in mailings to them. The Department finds that this term is less cumbersome and confusing than alternatives such as "Categorically Needy or Medically Needy coverage" and more accurate than some instances where one type of coverage was referenced and the other, inadvertently, left out.

Furthermore, this rulemaking makes changes in Part 18 of the Manual regarding requirements for hospitals to utilize Hospital Presumptive Eligibility, per Maine's SPA that was approved by CMS on October 28, 2020. The changes clarify the Hospital Presumptive Eligibility process and impose an 80% performance standard and a process for enforcing same.

As a result of comments, Part 9, §1(1)(A) is further amended to allow eligibility for the Special Benefits Waiver coverage group for individuals complying with any treatment regimen determined by their licensed healthcare professional.

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

Fiscal impact of rule:

This rule could increase costs to the Department of Health and Human Services as new individuals could apply for and receive MaineCare eligibility via the presumptive eligibility determinations. As it is unknown how many individuals would become eligible who would not have applied for eligibility without the presumptive eligibility determination from the provider, no fiscal estimate of these costs can be provided at this time. These additional costs would largely be seen as revenue for providers within the state.

Direct costs to the Department include the cost of rulemaking activity, necessary technology changes such as changes to ACES, and training and other outreach to the

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

providers making the presumptive eligibility determinations (all of which are covered by the existing budget for such changes).

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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); 19-A MRS §2302; Federal Regulation 45 CFR §307.11

Chapter number/title: **Ch. 351**, Maine Child Support Enforcement Manual: **ch. 2**, Definitions; **ch. 5**, Limitation of Debt; Bar Against Collection (19-A MRS §2302); SSI

Filing number: **2021-213**

Effective date: 10/17/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To meet mandatory federal requirements to comply with technical corrections to amended 45 CFR §307.11

Basis statement:

The adoption of these rules meets mandatory federal requirements by implementing technical corrections made to 45 CFR §307.11. Adopted rule 5(1) adds Social Security Retirement (SSR) benefits when referring to concurrent Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) in the rule to prevent garnishment or income withholding of SSI payments and either SSDI or SSR benefits. Adopted rule 2 adds definitions for SSR, SSI and SSDI to ch. 2.

Fiscal impact of rule:

There will be no financial impact of this amended rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and 3762(3)(A) and (18)
Chapter number/title: **Ch. 607**, APRIRE-TANF Program: **ASPIRE Rule #28A**, TANF Earnings Disregard Extensions
Filing number: **2021-114**
Effective date: 6/1/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule change aligns ASPIRE Program rules with changes to the Maine Public Assistance Manual that require the Department to consider receipt of the TANF earnings “Step” disregard as a condition for extended eligibility when a family has received TANF past the federal and state lifetime limit of 60 months. This extension is required in 22 MRS §3762(18) and 10-144 CMR ch. 331 chapter I(J)(3)(g)(i).

The addition of the TANF Earnings Disregard Extension will result in more Maine families receiving TANF/PaS and for a longer duration without a benefit reduction due to increased earnings.

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

Fiscal impact of rule:

The \$15.7 million annual fiscal impact to Maine’s federal TANF block grant was reflected in the Maine Public Assistance Manual (TANF) Rule #114A – Changes to Household and Budgeting rule. Of this total, \$2.4 million per year is anticipated for the additional supports participants will be eligible for during the extended time they are receiving TANF benefits.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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) and (8)
Chapter number/title: **Ch. 609**, Food Supplement-Employment and Training (FSET) Program Rules, **FSET Rule #5** – Bachelors Programs Approved
Filing number: **2021-086**
Effective date: 5/1/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Maine Department of Health and Human Services recently renewed its formal partnership with the Maine Department of Labor’s Competitive Skills Scholarship Program (CSSP) to include the CSSP program in its array of FSET services. This rulemaking proposes to expand Maine’s FSET post-secondary educational opportunities for FSET participants to include some 4-year degree programs that lead to high wage, in demand occupations, as defined by the Maine Department of Labor at 12-597, Chapter 2, Rule Governing the Competitive Skills Scholarship Program. The inclusion of these programs is consistent with the state plan amendment submitted to Food and Nutrition Services on October 23, 2020 and approved on November 13, 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:

Maine Department of Health and Human Services recently renewed its formal partnership with the Maine Department of Labor’s Competitive Skills Scholarship Program (CSSP) to include the CSSP program in its array of FSET services. Effective October 1, 2020, this rulemaking expands Maine’s FSET post-secondary educational opportunities for FSET participants to include some 4-year degree programs that lead to high wage, in demand occupations, as defined by the Maine Department of Labor at 12-597, Chapter 2, Rule Governing the Competitive Skills Scholarship Program. The inclusion of these programs is consistent with the state plan amendment submitted to Food and Nutrition Services on October 23, 2020 and approved on November 13, 2020.

Additionally, this rule change allows co-enrolled FSET and CSSP participants to most efficiently participate in educational programming. The rulemaking also clarifies that participants may be co-enrolled with more than one FSET provider only when the providers are delivering different components of services, as defined in the rule. As a result of comments, this rule change further clarifies that in the case of more than one provider offering the same component of service, the participant may select the provider of their choice.

In partnering with the CSSP program, Maine DHHS staff will utilize the expertise of the Maine Department of Labor to identify which occupations are high wage, in demand occupations, and support the degrees needed accordingly through its FSET program.

Finally, effective March 8, 2021, this rulemaking strikes language disallowing reimbursement for on the job training or work experience. This change aligns Maine’s policy with new federal rules adding subsidized employment as an allowable component.

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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

This amendment is expected to be annually cost neutral, as the same number of participants will be served, and providers will be held to the established budgets and caps for services and participant reimbursements in their contracts or Memorandum of Understanding as previously approved.

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

Fiscal impact of rule:

This amendment is expected to be annually cost neutral, as the same number of participants will be served, and providers will be held to the established budgets and caps for services and participant reimbursements in their contracts or Memorandum of Understanding as previously approved.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Maine Center for Disease Control and Prevention – Data, Research and Vital Statistics** (*jointly with 90-590, Maine Health Data Organization*)

Umbrella-Unit: **10-144**

Statutory authority: PL 2021 ch. 423; 22 MRS §§ 1406-A, 2706 sub-§2-A, 8715-A

Chapter number/title: **Ch. 730** (*New*), Interagency Reporting of Cancer Registry and Vital Statistics Data

Filing number: **2021-247**

Effective date: 12/14/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The Maine Health Data Organization is authorized by statute to collect health care data. PL 2021 ch. 423, *An Act to Improve Health Care Data Analysis*, requires the Maine Health Data Organization and the Department of Health and Human Services to adopt a joint rule to require the reporting to the MHDO of data from the cancer-incidence registry established pursuant to 22 MRS §1404 and data related to the registration of vital statistics pursuant to 22 MRS §2701. This new rule meets the requirement as defined above.

The integration of the cancer registry and vital statistics data information into the MHDO data sets will enhance the data analysis in the State of Maine, specific to cancer research.

The provisions of this new rule include: identification of the agencies involved and the reporting requirements; establishment of requirements for the content, format, method, and reporting periods for the data; data integration; and confidentiality.

Fiscal impact of rule:

There is no fiscal impact on state municipalities, counties or small businesses.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

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: **2021-001**
Effective date: 1/6/2021
Type of rule: Major Substantive
Emergency rule: Yes

Principal reason or purpose for rule:

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's have sufficient resources to meet the challenges stemming from the current surge of the ongoing COVID-19 coronavirus, and to continue to provide services for hundreds of children in Maine. Without this rate increase, Maine's children's residential 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 residential PNMI providers are already facing extreme, unanticipated financial threats to their continued operation.

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." On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic.

Although Governor Janet Mills declared a state of civil emergency by proclamation pursuant to 37-B MRS §742(1)(A) as early as March 15, 2020, and has continually renewed that declaration ever since, over the past month, Maine's Centers for Disease Control and Prevention (CDC) has reported rates of COVID-19 infection as well as resulting hospitalizations and deaths resulting from COVID-19 at levels many times higher than at any other point during the civil emergency. This surge affects communities across the state.

Pursuant to 10-144 CMR ch. 101 (the *MaineCare Benefits Manual*) ch. II and III section 97 ("Private Non-Medical Institutions", or "PNMI", Services), PNMI's provide Medicaid services to various populations in Maine. Here, section 97 Appendix D governs the PNMI's 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 current surge of COVID-19 infections has created a number of challenges for PNMI's providing residential treatment to children statewide. PNMI's have been deemed an essential service as they are providing care and treatment for hundreds of children across the state. In the face of these challenges, several providers have recently shut down, resulting in a loss of residential care beds for Maine children.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Specifically, challenges include:

- 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 infection.
- The need to assure adequate staffing levels if members of a provider's staff are absent due to suspected or confirmed COVID-19 infection.
- 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 increased pay for their staff to compensate for the risk of exposure to COVID-19.
- School closures and virtual schooling have resulted in increased need for staffing. Prior to the pandemic children left the residential setting to receive educational services elsewhere, allowing providers to decrease staffing during this time. Due to the pandemic most children in residential are completing school virtually and residential providers are required to maintain staff not previously required in order to supervise schooling.

This emergency rule temporarily increases the Standard Room and Board Rate under 10-148 CMR ch. 21. The current rate for providers governed by this rule is \$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 \$26.55 to \$81.00 per occupied bed day, effective January 1, 2021 and continuing until March 31, 2021. The Department is making the rate increase retroactive to January 1, 2021. This retroactive application is authorized by 22 MRS §42(8), as it provides a financial benefit to the providers.

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's 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. In the face of the current surge and its effect on PNMI's operations, 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 current COVID-19 situation, detailed above.

Emergency major substantive rules are effective for up to one year, pursuant to 5 MRS §8072. Moving forward, the Office of Child and Family Services (OCFS) is collaborating with MaineCare on a rate study for children's residential care. The study is considering both the MaineCare portions of the service, as well as the room and board rate covered by this rule, 10-148 CMR ch. 21. It is anticipated that in early 2021 MaineCare's contracted provider will complete the rate study and OCFS plans to update the rate permanently through non-emergency, major substantive rulemaking pursuant to 5 MRS §8071 once the rate study is complete.

Fiscal impact of rule:

\$720,000.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of Child and Family Services**
Umbrella-Unit: **10-148**
Statutory authority: 22 MRS §§ 7702-B, 7703, 7704, 7707, 7802, 8301, 8301-A, 8302-A, 8303-A
Chapter number/title: **Ch. 32** (*Repeal and replace*), Child Care Facility Licensing Rule – Child Care Centers, Nursery Schools, Small Child Care facilities, Other Programs. Also repeals **Ch. 36**, Rules for the Licensing of Nursery Schools
Filing number: **2021-188, 189**
Effective date: 9/27/2021
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”) proposed rulemaking to repeal 10-148 CMR ch. 32 *Rules for the Licensing of Child Care Facilities* and 10-148 CMR ch. 36 *Rules for the Licensing of Nursery Schools* to replace the two rules with 10-148 CMR ch. 32 *Child Care Facility Licensing Rule - Child Care Centers, Nursery Schools, Small Child Care Facilities, Other Programs* on June 30, 2021. A public hearing using the zoom platform was held on July 20, 2021 and written comments were accepted through July 30, 2021.

The Department has determined that adoption of this rule, 10-148 CMR ch. 32 *Child Care Facility Licensing Rule - Child Care Centers, Nursery Schools, Small Child Care Facilities, Other Programs* is necessary to fully comply with the federal requirements of the 2014 reauthorization of the Child Care and Development Block Grant (CCDBG), which provides significant funding annually to improve access to and quality of child care in Maine. Maine currently has an approved waiver for specific requirements that will expire on September 30, 2021. The new provisions in the proposed rule are required to remain in compliance with CCDBG and must be operationalized prior to the expiration of the waiver. These provisions require compliance with 10-148 CMR ch. 34 *Child Care Provider (Child Care Facilities and Family Child Providers) Background Check Licensing Rule*, require specific health and safety training for staff, require emergency preparedness plans, require immunization records for all children, and require all monitoring reports to be posted to a public website for three years. Additionally, the proposed rule includes provisions necessary to meet the health and safety needs of children who are served in child care facilities. The rule updates the current regulations and merges and consolidates requirements of the current rules in order to streamline requirements and processes.

Significant changes to the rule include;

- Reframing the order and language of the rule to describe provider licensing responsibilities more clearly;
- Removing obsolete definitions, while adding and clarifying other definitions necessary for the rule;
- Adding that the Department will post all inspection reports to a website available to the public for a period of three years;
- Streamlining and clarifying requirements for license applications;
- Eliminating requirements for personal references;

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021

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

- Requiring an applicant to complete pre-licensure health and safety training;
- Adding the requirement for compliance with 10-148 CMR ch. 34 Child Care Provider Background Check Licensing Rule, which was effective Sept. 25, 2020;
- Adding additional requirements for the staff manual;
- Expanding written policy requirements for handling suspected instances of child abuse and neglect;
- Adding a requirement to register with Maine's Quality Rating Improvement System;
- Adding clarifying language regarding the waiver process;
- Clarifying inspection and investigation procedures;
- Adding language to the rule for transparency to reflect current practice of requiring a Plan of Action or issuance of a Directed Plan of Action;
- Unifying record-keeping requirements and including additional requirements in the program manual and policies;
- Increasing personnel record retention and child records to three years;
- Adding the requirement for record of immunization for all children;
- Clarifying and adding requirements for notifications and reports to the Department including adverse drinking water results;
- Adding provisions to supervision;
- Broadening staff qualifications and requirements;
- Specifying orientation and ongoing training requirements;
- Adding safe sleep provisions;
- Adding a requirement for registration with Maine's Professional Development Network;
- Adding additional constructive methods of guidance;
- Clarifying prohibited detrimental practices;
- Merging Rights of Children;
- Requiring written instructions regarding child abuse and neglect reporting;
- Requiring the Child Protective Intake hotline number be posted;
- Adding requirement that all children have a current record of immunization on file, removing specific exemptions from immunization requirements, per PL 2019 ch. 154 §11 (eff. Sept. 1, 2021);
- For Nursery Schools only, every 2 years each licensee, administrator and other staff members of the Nursery School who provide care for children must be declared free from communicable disease by a licensed physician, nurse practitioner or physician assistant. Pursuant to 22 MRS §8402, effective September 1, 2021, there will no longer be exemptions from this requirement based on religious or philosophical beliefs;
- Adding requirement for facilities serving 13 or more Children to have a separate first aid kit and manual in each classroom;
- Adding a requirement to test drinking water for lead and other specified contaminants;
- Adding requirement to notify parents when on a bottled water agreement;
- Adding requirements related to the indoor physical environment to include the requirement for shock absorbing material, requirements regarding power equipment, requirements regarding purses, bags, medications and other belongings;
- Adding time requirements for outdoor play and limits for television, videos, and hand-held electronic devices;
- Adding a requirement for a carbon monoxide detector;
- Decreasing minimum indoor temperature requirement to 65° Fahrenheit;
- Increasing requirements for outdoor play areas including specific criteria for fencing, use of helmets, and energy absorbing material in fall zones;
- Adding requirements for exceeding maximum group size in outdoor areas;

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- Adding requirements for bathing facilities;
- Specifying and adding requirements for emergency preparedness plans;
- Clarifying requirements for swimming and wading settings and adding requirements for hot tubs;
- Adding more healthy meal and snack requirements and limiting consumption of juice;
- Adding a requirement for documentation of allergy plan;
- Adding safety precautions in kitchen facilities;
- Adding disqualifying driving offenses prohibiting provider transport of children;
- Decreasing restrictions to first floor;
- Limiting use of infant equipment to 30 consecutive minutes;
- Adding requirements regarding feeding and storage of breast milk;
- Prohibiting the practice of swaddling;
- Adding requirements for nighttime care; and
- Increasing transparency and clarifying enforcement authority and process.

Fiscal impact of rule:

The expected impact will vary depending upon the provider. Providers may have cost associated with compliance with outdoor play areas, safe sleep, water testing, and required training.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of Child and Family Services**
Umbrella-Unit: **10-148**
Statutory authority: 5 MRS §§ 8054, 8073; 22 MRS §§ 7702-B11), 7703(6), 7704, 77073), 7802(7), 8301(8), 8302-A(2), 8303-A(l)
Chapter number/title: **Ch. 33** (*Repeal and replace*), Family Child Care Provider Licensing Rule
Filing number: **2021-112**
Effective date: 5/27/2021
Type of rule: Major Substantive
Emergency rule: Yes

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

Basis statement:

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 Department's findings of emergency are as follows: Without this emergency major substantive rule, the provisionally adopted major substantive rule provisions would have no legal effect until they are reviewed and approved by the Maine Legislature. These provisions are integral to the rule as a whole, such that the rule could not function nor be enforceable unless they have legal effect. The lack of a functional, enforceable rule for the licensing of family child care providers presents an immediate threat to the health, safety, and general welfare of Maine children. Moreover, as indicated below, these provisions provide necessary protection for children and toddlers. These major substantive provisions are both necessary for the primary health and safety of the children in family child care and are required by Maine law to be included in this rule. 22 MRS §8302-A(2). Finally, emergency adoption of the major substantive provisions of this rule is necessary to fully comply with the federal requirements of the 2014 reauthorization of the Child Care and Development Block Grant (CCDBG), which provides significant funding annually to improve access to and quality of child care in Maine.

The Emergency Major Substantive rule adopted in this rulemaking is identical to the 10-148 CMR ch. 33 rule the Department adopted on May 20, 2021. The emergency major substantive provisions in this rule, that are effective May 20, 2021, address the following: applicant qualifications; requirements of provider handbook, staff manual, and child abuse/neglect policies; fees; record management and retention; certain reporting requirements; staff-child ratios, supervision, and qualifications; provider and staff training; child guidance; rights of children and parents; health and medical care; environment and safety; swimming and wading; food and kitchen; infant/ toddler care; nighttime care; and certain enforcement provisions.

Specific changes from the former Family Child Care Provider Licensing Rule, 10-144 CMR ch. 33, that are adopted on an emergency basis in this rulemaking include: requiring compliance with comprehensive background checks pursuant 10-148 CMR ch. 34 (Emergency Rule, effective 9-25-20), adding requirements for provider handbook and staff manual, increasing record retention from two years to three years, updating immunization requirements, clarifying and adding requirements for notifications to the Department, adding staff qualifications and requirements, specifying orientation and ongoing training requirements, adding a requirement for registration with Maine's Professional Development Network, adding a requirement to register with Maine's Quality Rating Improvement System, adding child and parent rights, adding time requirements for active outdoor play, reducing

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

screen time, adding a requirement for a carbon monoxide detector, changing temperature requirements, adding swimming requirements, adding healthy meal and snack requirements, adding disqualifying driving offenses prohibiting provider transport of children, prohibiting swaddling, modifying requirements for nighttime care, and increasing transparency with additional parental notification.

Fiscal impact of rule:

The Department does not anticipate any fiscal impact as the changes are cost neutral.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of Child and Family Services**
Umbrella-Unit: **10-148**
Statutory authority: 22 MRS §§ 42,7801,7802, 8102; 22-A MRS §205(2); 34-B MRS §1203-A
Chapter number/title: **Ch. 35** (*Repeal and replace*), Children’s Residential Care Facilities Licensing Rule (*replaces ch. 36*)
Filing number: **2021-243, 244**
Effective date: 12/12/2021
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”) proposed rulemaking to repeal the current Children’s Residential Care Facilities Licensing Rule, 10-144 CMR ch. 36, and to replace it with 10-148 CMR ch. 35: Children’s Residential Care Facilities Licensing Rule on September 22, 2021. There was no public hearing for this proposed rule. The Department accepted written comments through October 22, 2021.

The Department has determined that adoption of this rule, 10-148 MR ch. 35 Children’s Residential Care Facilities Licensing Rule, is necessary to fully comply with the requirements of the federal Family First Prevention Services Act (FFPSA) of 2018 which requires states to focus resources on prevention services and early intervention to strengthen families, keep children safe, and reduce the need for foster care. FFPSA also improves the wellbeing of children who are in foster care by reducing placement of children in congregate care settings. The Department believes that the new requirements adopted in this rulemaking to comply with FFPSA will afford greater health and safety protection for children and young adults receiving services in a children’s residential care facility.

For children who require treatment in a residential care facility, FFPSA established standards for Qualified Residential Treatment Programs (QRTP). In order for states to receive Title IV-E federal financial support for children in state care placed in a residential care facility, the facility must meet QRTP standards. This rule requires most children’s residential care facilities to comply with QRTP standards, and all that serve children in state care. QRTP requirements incorporated into the rule are described in the list of specific changes to the current rule, below.

FFPSA also requires states to conduct comprehensive background checks on any adult working in a children’s residential care facility. These new comprehensive background check requirements include pre-employment fingerprinting with a search of the Federal Bureau of Investigation (FBI) and State Bureau of Identification (SBI). Furthermore, FFPSA stipulates which crimes disqualify an individual from working at a children’s residential care facility either for the individual’s lifetime or for five years, depending on the crime. Additionally, FFPSA requires checks of the child abuse and neglect registry for each state in which prospective hires have resided during the preceding five years. This rulemaking incorporates the comprehensive background check requirements of FFPSA into the licensing rule. Additionally, the Department includes checks of professional registries and Adult Protective Services records in the adopted rule.

This rule adoption also updates and clarifies language to reflect current practice and adds requirements to afford greater health and safety protection for residents receiving

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

services. The Department has adopted these changes based on program knowledge and expertise, and review of current practice as compared to the current rule. Moreover, the Office of Child and Family Services consulted with other offices within the Department of Health and Human Services to assure that this rule development aligned with Department goals and other Department policies.

Significant specific changes to the current rule include:

- Specifying exemptions or modifications applicable to specific service types (i.e., crisis services and therapeutic boarding schools) throughout the rule;
- Removing, adding, clarifying, and updating definitions;
- Adding the requirement for participation in quality assurance reviews conducted by Children's Behavioral Health Services within the Office of Child and Family Services;
- Adding and clarifying requirements for licensure application;
- Adding requirement for accreditation for consideration as a Qualified Residential Treatment Program and adding requirement for accreditation reports to be submitted to the Department in section;
- Requiring a trauma informed treatment model for consideration as a Qualified Residential Treatment Program;
- Requiring a unique license for each physical site;
- Adding a policy requirement for aftercare;
- Adding requirement that providers must follow Rights of Recipients of Mental Health Services (14-193 CMR ch. 1) for residents 18-21 years old;
- Specified requirement for providers to comply with requests for records;
- Adding requirement for staff to sign a statement regarding adult abuse and neglect;
- Removing requirement for medical examination for staff;
- Adding parental/guardian participation as appropriate and required for a Qualified Residential Treatment Program and requiring an aftercare plan to be in the resident record;
- Clarifying reporting requirement for all facilities;
- Changing reporting requirement from next business day to 72 hours to align with updated OCFs policy and clarified reporting requirements for adult residents 18-21 years old;
- Adding additional requirements to the comprehensive assessment and removing requirement for physician consultation regarding medication during comprehensive assessment;
- Removing requirement for crisis units to do a full comprehensive assessment;
- Modifying service plan review requirements to include a 30-day internal review;
- Modifying the review frequency of crisis plan from after every use to each service plan review or sooner if needed;
- Adding additional discharge requirements to include documenting resident's progress and family involvement;
- Incorporating new post-discharge requirements for Qualified Residential Treatment Programs;
- Clarifying and consolidating the requirements to meet physical health needs of residents;
- Adding requirement for first aid kits to be in each facility vehicle;
- Adding requirement for medication to be secured at all times;
- Clarifying language and reorganizing the behavior management section of rule;

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- Removing requirements regarding isolation, including assessment of benefit of isolation and need for approval by supervisor;
- Clarifying and updating language regarding restraint;
- Clarifying previously allowed practice of standing in or near the doorway while engaging in approved de-escalation techniques as the only form of seclusion allowed;
- Requiring all non-clinical staff providing direct care and supervision of residents to be certified as Behavioral Health Professionals (BHP), for facilities designated as a Qualified Residential Treatment Program;
- Expanding and elaborating requirements for staff, including clarifying the requirement that good judgement means respecting professional boundaries;
- Updating and clarifying staff supervision requirements;
- Removing specific requirements for staff evaluations;
- Adding requirements for comprehensive background checks and including specific disqualifying conditions aligning with Family First Prevention Services Act;
- Including professional registries and Adult Protective Services in background check requirements;
- Adding disqualifying driving offenses that prohibit a staff member from transporting residents;
- Updating staff training requirements;
- Adding requirement to screen for indications of human trafficking;
- Clarifying requirement for seatbelts and child safety seats;
- Adding requirements for Qualified Residential Treatment Programs to have both a licensed clinician and registered nurse available 24 hours a day/ 7 days a week;
- Eliminating requirement for six-month clinical review;
- Adding specialized service requirements for facilities providing Intellectual and/or Developmental Disabilities Treatment Programs;
- Adding requirements for assessment and staff supervision;
- Expanding allowable credentials for a clinician to include clinical conditional LCSW, LCPC, and LMFT with two years behavioral health field work with children in Level 2 facilities;
- Adding ancillary service to include BCBA in Level 2 facilities;
- Clarifying language regarding enforcement to reflect current practice; and
- Adding requirement to notify guardians of current and prospective residents of licensing action.

Fiscal impact of rule:

Services provided to children in Children’s Residential Care Facilities are funded by a variety of means including MaineCare, federal Title IV-E funds, and State general funds. A recent rate study was conducted which incorporated the expected costs associated with each of the new provisions proposed in this rule and resulted in rate increases for services provided in Children’s Residential Care Facilities. As approved in PL 2021 ch. 29 and 398, the estimated fiscal impact of this rule is \$5.8m General Fund, \$10.3m Federal Expenditures Fund, and \$1m Other Special Revenue Funds.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of Aging and Disability Services**
Umbrella-Unit: **10-149**
Statutory authority: 22 MRS §§ 42, 3493
Chapter number/title: **Ch. 5 §16 (Repeal)**, Adult Protective Services: Administration
Filing number: **2021-041**
Effective date: 2/27/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The Department is repealing 10-149 CMR ch. 5 §16 – “Adult Protective Services: Administration”, because its description of Adult Protective Services (APS) case records management practices, including retention, transfer, maintenance, and case reviews, is outdated and no longer applicable. Section 16, effective October 6, 2007, was part of the *Office of Elder Services Policy Manual*. The Office of Elder Services and the Office of Adults with Cognitive and Physical Disabilities Services merged in 2012, and the Office of Aging and Disability Services was established. As a unit within the Office of Aging and Disability Services, APS follows the record retention policies established by the Department of Health and Human Services as well as the Maine Secretary of State. APS files are currently maintained electronically in a system known as Evergreen. The repeal of Section 16 therefore will assure that reporters, victims, Department staff, and the public do not have inaccurate information regarding the Department’s APS file management practices.

Fiscal impact of rule:

There is no cost to municipalities or counties associated with this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Health and Human Services, **Office of Aging and Disability Services** (2)
Umbrella-Unit: **14-197**
Statutory authority: 22 MRS §§ 42(1), 3089(3); 34-B MRS §5206(8)
Chapter number/title: **Ch. 6** (*New*), Crisis Prevention and Intervention Services
Filing number: **2021-121**
Effective date: 7/1/2021
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

PL 2019 ch. 290 §1 directed the Department to adopt major substantive rules to implement 34-B MRS §5206. Section 5206 authorizes crisis services for persons with intellectual disabilities or Autism Spectrum Disorder. The rule also describes the Department's crisis services available for persons with an acquired brain injury pursuant to 22 MRS §3088.

Basis statement:

The Maine Legislature, pursuant to PL 2019 ch. 290 §1, directed the Department of Health and Human Services to adopt rules to implement 34-B MRS §5206 - Crisis and Respite Services, and designated such rules as major substantive rules. In order to comply with the Legislature's mandate, the Department is adopting this *Crisis Prevention and Intervention Services (CPIS)* rule to provide guidance on the Department's crisis services for persons with intellectual disabilities or Autism Spectrum Disorder authorized by 34-B MRS §5206. This rule also describes crisis services available to persons with acquired brain injuries pursuant to 22 MRS §3088.

The Department's crisis services support and promote the safety and well-being of adults with intellectual disabilities, acquired brain injuries, or Autism Spectrum Disorder who are in crisis, when such personal crises could lead to the loss of their home, program, or employment. CPIS shall be offered in the person's home, program, or workplace when feasible unless otherwise provided in the person's service plan or CPIS in the home have proven to be unsuccessful. Out-of-home CPIS may be available in Residential Stabilization Units maintained by or on behalf of the Department. To deploy CPIS to persons in crisis, the Department shall provide intake services, crisis case management services, crisis stabilization units and emergency transitional housing, and post-crisis services. The Department will offer training on CPIS, maintain data, and undertake deidentified reporting for planning and budgeting purposes. The Department will also maintain a statewide respite system for planned and unplanned respite for persons with intellectual disabilities or Autism Spectrum Disorder and their families.

OADS drafted this rule utilizing the following resources: existing crisis services for persons with intellectual disabilities, acquired brain injuries, or Autism Spectrum Disorder who are in crisis; stakeholder input; the Department's knowledge of and experience with administering crisis services; and the administration's guidance and vision for crisis services for these populations.

The Department held a virtual public hearing on October 14, 2020. No comments were submitted during the comment period or during the public hearing.

The Department provisionally adopted this major substantive rule on December 22, 2020. The Legislature approved the provisionally-adopted rule without amendment by Resolves 2021 ch. 12, which was approved by the Governor on May 5, 2021. This rulemaking will not impose any costs on municipal or county government or on small businesses.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Fiscal impact of rule:

There is no cost to municipalities or counties associated with this rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Labor, **Bureau of Rehabilitation Services**
Umbrella-Unit: **12-152**
Statutory authority: 26 MRS §1412-E
Chapter number/title: **Ch. 1**, Division of Vocational Rehabilitation Services Rules
Filing number: **2021-134**
Effective date: 6/29/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

During the approval process of the *Workforce Innovation Opportunity Act State Plan*, the Rehabilitation Services Administration (US Dept of Education) identified an inconsistency between the Division of Vocational Rehabilitation’s state rules and the federal rules for Vocational Rehabilitation (34 CFR Part 361) – specifically related to determination of ‘Order of Selection’.

Basis statement:

Modification of this rule, which governs the administration of Maine’s vocational rehabilitation program, is necessary for conformity with requirements in the federal rules for Vocational Rehabilitation (34 CFR Part 361) – specifically related to determination of ‘Order of Selection.’ The amended rule adds a fourth category of priority for “all other eligible individuals,” to be served only after all individuals in Categories #1, #2, and #3 receive services. It also makes minor changes to language for clarification and consistency with the language used in the federal Rehabilitation Act. The eligibility criteria section is amended to include eligibility for an individual to advance in employment, which was previously inadvertently omitted.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Labor, **Bureau of Rehabilitation Services**
Umbrella-Unit: **12-152**
Statutory authority: 26 MRS §1419-A
Chapter number/title: **Ch. 12**, Rules for the Communication Equipment Fund Program for People with Disabilities
Filing number: **2021-135**
Effective date: 6/28/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These rule changes are necessary to conform with 26 MRS §1419-A.

Basis statement:

Modification of this rule is necessary to conform with 26 M.S §1419-A. It removes references to emergency alert notifications to persons who are deaf or hard-of-hearing in the rules, which govern the provision of funds for purchase, lease, upgrading, installation, maintenance and repair of specialized customer telecommunication equipment for persons with disabilities. Specifically, it updates descriptions within the Program of Services and Eligibility Determination sections of this Chapter by removing emergency alert notification equipment from the Cost Sharing Program; the Lending Program; the Emergency Alert Service Charge Discount; and the Provision of Equipment. It removes reference to texting equipment. It also removes Section 5 Reimbursements to Service Providers for Emergency Alert Service Charge Discount.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: **2021-232**
Effective date: 11/20/2021
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 ensure sufficient protection for public sector healthcare workers in accordance with state law that requires adoption of OSHA standards as a minimum standard. This rule incorporates by reference changes to the Federal Occupational Safety and Health Administration regulations, 29 CFR Part 1910, in particular, the COVID-19 Emergency Standard contained in Subpart U, released on June 10, 2021, and corrected on July 14, 2021.

Fiscal impact of rule:

Public sector employers that provide healthcare services or healthcare support services are already complying with these or similar requirements under other federal and state laws and regulations

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 2107
Chapter number/title: **Ch. 5**, Occupational Safety and Health Standards for Public Safety Diving
Filing number: **2021-233**
Effective date: 11/20/2021
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 for the Board of Occupational Safety and Health (BOSH) to establish standards and procedures to protect public safety divers from the hazards of diving. This rule covers safety standards and procedures for compressed gas diving performed in the interest of search and rescue or related public safety purposes. This amendment to the rule includes clarifications to terminology.

The amendment to this rule also includes clarification as to interaction with other BOSH rules and federal standards. While the Federal Occupational Safety and Health Administration (OSHA) regulations, 29 CFR Part 1910, are incorporated by reference in BOSH rule chapter 2, and OSHA regulations, 29 CFR 1926 Subpart Y are incorporated by reference in BOSH rule, chapter 3, those federal standards apply to commercial or scientific diving activities and do not apply to search and rescue or related dives for public safety purposes.

Fiscal impact of rule:
N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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. 6**, Recording Occupational Injuries and Illnesses in the Public Sector
Filing number: **2021-234**
Effective date: 11/20/2021
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 changes to the Federal Occupational Safety and Health Administration regulations, 29 CFR Part 1904, as of June 3, 2021. The most recent change incorporated in chapter 6 requires report to OSHA any workplace work-related incident that results in the in-patient hospitalization of one or more employees (changing the previous threshold of 3 employees), an employee amputation, or an employee loss of an eye. The existing requirements in 26 MRS §2 to report a fatality or serious physical injury remain in place.

Fiscal impact of rule:
N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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. 2, Aquaculture Lease Regulations: 2.95, Water Quality Classifications and Shellfish Aquaculture (Maximum Seed Sizes in Prohibited Areas)
Filing number: 2021-055
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Compliance with the Model Ordinance and to eliminate the need to close aquaculture sites that receive seed from prohibited areas, so long as the movement of seed complies with the proposal.

Basis statement:

This rule pertains to seed shellstock that is cultured within the prohibited growing area classification. The regulation requires the removal of cultivated seed from prohibited areas before it exceeds the listed maximum size for each species contemplated. The rule is necessary to comply with provisions set forth in the National Shellfish Sanitation Program Model Ordinance (Model Ordinance). The rule eliminates the need to close receiving aquaculture lease or license sites for depuration, provided seed is moved in compliance with what is specified in the rule. The rule removes the existing requirement that a permit be obtained for seed that comes from any growing area not classified as approved or conditionally approved. Aquaculturists cultivating seed in prohibited areas must have a DMR approved operations plan that needs to include corrective action for dealing with seed that exceeds the maximum size specified in the rule. Failure to implement the corrective actions will result in the destruction of the seed. The Department has also adopted a rule change to Chapter 94 (Sanitary Control of Molluscan Shellfish), which specifies that aquaculture lease and license holders may buy, or possess seed from growing areas in the prohibited classification, so long as the seed size complies with what is set forth in this regulation.

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, 2021 to December 31, 2021
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. 5, Confidentiality of Fisheries Statistics
Filing number: 2021-160
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule clarifies that any statistics collected by the Department of Marine Resources from a dealer, harvester, business, person or vessel as a result of compliance with reporting requirements, or an agreement by that dealer, harvester, business, person or vessel to participate in a Department led project to develop or test new methodologies or technologies for the reporting of fisheries statistics, is confidential data as provided by 12 MRS 6173.

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, 2021 to December 31, 2021
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. 8, Landings Program: 8.20, Harvester Reporting
Filing number: 2021-115
Effective date: 6/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

Public Law 2020 ch. 640 created a new license for the harvest of menhaden. Prior to the creation of the menhaden license, menhaden were harvested under the commercial pelagic and anadromous license. This rulemaking updates reporting requirements for menhaden to reflect that the individuals who are required to report menhaden harvest are those that hold the menhaden license under 12 MRS §6502-C. Reporting elements remain the same as in prior seasons. The Commissioner has determined that it is necessary to take emergency action to amend the menhaden harvester reporting section as it relates to reporting requirements specific to fishery operations to ensure accurate and timely monitoring of the menhaden quota and to prevent the imminent depletion of the menhaden resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(A).

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, 2021 to December 31, 2021
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. 8, Landings Program: 8.20(M), Menhaden License Update
Filing number: 2021-161
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Public Law 2020 ch. 640 created a new license for the harvest of menhaden. Prior to the creation of the menhaden license, menhaden were harvested under the commercial pelagic and anadromous license. This rule updates reporting requirements for menhaden to reflect that the individuals who are required to report menhaden harvest are those that hold the menhaden license under 12 MRS §6502-C. Reporting elements remain the same as in prior seasons.

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, 2021 to December 31, 2021
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. 8, Landings Program: 8.20(T), Mussel Harvester Reporting
Filing number: 2021-218
Effective date: 10/31/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

On August 13, the Department received a request from the Maine Mussel Fisheries Improvement Project to implement mandatory harvester reporting for the wild mussel fishery as a means of providing information to better monitor the health of the mussel resource and fishery. The collection of effort and location information from harvesters is a standard practice to provide information necessary for fisheries management.

Basis statement:

This rule establishes mandatory monthly trip-level harvester reporting for individuals who hold a mussel boat license or a hand-raking mussel license. Required reporting elements are specified in the rule. The purpose of having harvesters report their activity is to better monitor the health of the mussel resource and fishery.

Fiscal impact of rule:

Collection of this additional data can be done within the Department's existing resources.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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, 11.08, Targeted Closures: (7) Roque Island Harbor and Kennebec River in Englishman’s Bay Rotational Area; (8) Harrington and Pleasant Rivers in Addison Rotational Area; (9) Fox Island Thorofare in Isle au Haut Rotational Area; (10) Casco Passage in Swan’s Island Rotational Area
Filing number: 2021-026
Effective date: 1/17/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08. Targeted Closures will be established in (7) Roque Island Harbor and Kennebec River in Englishman’s Bay Rotational Area; (8) Harrington and Pleasant Rivers in Addison Rotational Area; (9) Fox Island Thorofare in Isle au Haut Rotational Area; and (10) Casco Passage and western Toothacher Bay in Swan’s Island Rotational Area.

Basis statement:

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in Roque Island Harbor and Kennebec River; Harrington and Pleasant Rivers; Fox Islands Thorofare; and, Casco Passage and western Toothacher Bay in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2020-2021 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2020 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 these four scallop resource 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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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. 11, Scallops:11.08, Targeted Closures: (7) Upper Englishman Bay RA; (8) Addison RA; (11) Cobscook, Whiting & Dennys Bays; (12) Upper Frenchmen Bay; (13) Damariscotta River LAA; (14) West Casco Bay
Filing number: 2021-043
Effective date: 2/14/2021
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 in Cobscook, Whiting and Dennys Bays, Upper Frenchman's Bay, Damariscotta River and western Casco Bay; and, to expand existing closures in Englishman Bay and Addison rotational areas. In Cobscook, Whiting and Dennys Bays, there is an exception to the conservation closure to allow the harvest of scallops by drag on Monday, February 15, 2021 and to allow the harvest of scallops by diving on Saturday, February 20, 2021. The Department is concerned that continued harvesting for the remainder of the 2020-2021 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2020 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 these six scallop resource areas.

Basis statement:

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08, Targeted Closures: (7) Upper Englishman Bay RA; (8) Addison RA; (11) Cobscook, Whiting & Dennys Bays; (12) Upper Frenchman Bay; (13) Damariscotta River LAA; and (14) West Casco Bay.

In summary, the Department is concerned that continued harvesting for the duration of the 2020-21 fishing season in the above listed areas will reduce any remaining broodstock as well as seed scallop resource that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource in these areas. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in Cobscook, Whiting, Dennys Bays, Upper Englishman Bay RA, Addison RA, Upper Frenchman Bay, Damariscotta River LAA and West Casco Bay.

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, 2021 to December 31, 2021
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. 11, Scallops: 11.08, Targeted Closures: (9) Isle au Haut RA; (10) Expanded Swan's Island; (11) Cobscook, Whiting & Dennys Bays & St. Croix River; (12) Expanded Upper Frenchmen Bay
Filing number: 2021-054
Effective date: 3/7/2021
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 the St. Croix River in Zone 3; and to expand existing closures in Frenchman Bay, Swan's Island and Isle au Haut rotational areas. The Department is concerned that continued harvesting for the remainder of the 2020-2021 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2020 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 these four scallop resource areas.

Basis statement:

The Department is taking emergency rulemaking action to amend targeted conservation closures in ch. 11.08, Targeted Closures: (9) Isle au Haut RA; (10) Expanded Swan's Island; (11) Cobscook... & St. Croix River; (12) Expanded Upper Frenchman Bay.

In summary, the Department is concerned that continued harvesting for the duration of the 2020-21 fishing season in the above listed areas will reduce any remaining broodstock as well as seed scallop resource that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource in these areas. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in St. Croix River, Upper Swans Island RA, Upper Frenchman Bay RA, and Isle au Haut RA.

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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6722
Chapter number/title: Ch. 11, Scallops: 2021-22 Season
Filing number: 2021-219
Effective date: 10/31/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Scallop regulations must be updated for each new season to adjust the schedules and closure lines based on data from the previous season.

Basis statement:

This rule-making establishes the 2021-2022 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 6, 2021 and the last day of the season is March 17, 2022. For Zone 1, a 60-day season for divers starts on November 16, 2021 and the last day of the season is April 29, 2022. For Zone 2, a 70-day season for draggers starts on December 1, 2021 and the last day of the season is March 31, 2022. For Zone 2, a 70-day season for divers starts on November 19, 2021 and the last day of the season is March 26, 2022. For Zone 3, a 50-day season for draggers begins on December 1, 2021 and the last day of the season is March 28, 2022. For Zone 3, a 50-day season for divers begins on December 2, 2021 and the last day of the season is March 26, 2022.

New limited access areas for the 2021-2022 season: Western Casco Bay and Sheepscot River in Zone 1; and, Gouldsboro/Dyers Bay and West Moosabec Reach in Zone 2. Targeted seed closures are re-established in Eastern Casco Bay and Damariscotta River in Zone 1. In Zone 3, St. Croix River is established as a new targeted seed closure. In Zone 2, territorial waters surrounding Machias Seal Island and North Rock are open to harvest all days beginning December 1, 2021 through March 31, 2022.

A new mooring closure is implemented for Sullivan Harbor. The Limited entry system is updated to allow entry to either the scallop dragging license lottery or the scallop hand harvest lottery but individuals may not enter both lotteries.

DMR is maintaining 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 are maintained: Lower Muscle Ridge, Back River, New Meadows River, Card Cove and Beals-Jonesport Bridge.

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, 2021 to December 31, 2021
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. 24, Importation of Live Marine Organisms
Filing number: 2021-044
Effective date: 2/14/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

Polymerase Chain Reaction (PCR) results received on January 22, 2021 from Kennebec River Biosciences in Richmond, Maine confirmed the presence of MSX (*Haplosporidium nelsoni*) in wild American oysters in Quahog Bay. MSX was detected at a low level in 2 of 24 oysters sampled, one of which also displayed thin tissues. MSX is an oyster disease caused by a microscopic parasite. It is a health and mortality problem for American oysters but does not affect human health or consumption.

Basis statement:

Routine health surveillance has confirmed the presence of MSX (*Haplosporidium nelsoni*) in Quahog Bay. MSX is a microscopic parasite that affects the health and survival of the American oyster (*Crassostrea virginica*) resource but does not pose a risk to consumers or human health. This emergency rulemaking creates an American oyster restricted area within Quahog Bay and Ridley Cove in Harpswell, Maine. The movement or transfer of American oysters greater than 3 mm in size, from the newly established restricted area to other waters of the state, is prohibited without a permit from the Maine Department of Resources (DMR). Persons will be required to obtain a permit for the movement, but not harvest, of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with ch. 24.05. This emergency rulemaking is necessary to protect the American oyster resource (aquaculture and wild) from unusual damage and or imminent depletion that would be caused by continued uncontrolled movement of oysters infected by MSX throughout Maine's waters. As authorized by 12 MRS §6171(3)(A), the Commissioner of DMR adopts this emergency regulation.

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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §6071
Chapter number/title: Ch. 24, Importation of Live Marine Organisms
Filing number: 2021-162
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

On February 14, 2021, DMR implemented an emergency rule because routine health surveillance confirmed the presence of MSX (*Haplosporidium nelsoni*) in Quahog Bay, Harpswell, Maine. MSX is a microscopic parasite that affects the health and survival of the American oyster (*Crassostrea virginica*) resource but does not pose a risk to consumers or human health. This rule continues the American oyster restricted area within Quahog Bay and Ridley Cove in Harpswell, Maine previously adopted under the emergency rule. The movement or transfer of American oysters greater than 3 mm in size, from the restricted area to other waters of the state, is prohibited without a permit from DMR. Persons are required to obtain a permit for the movement, but not harvest, of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with ch. 24.05.

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, 2021 to December 31, 2021
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 §6749
Chapter number/title: Ch. 26, Sea Urchins (2021-2022 Season)
Filing number: 2021-163
Effective date: 8/10/2021
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 adoption 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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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. 30, River Herring: 30.03, Taking of River Herring from Walker's Brook
Filing number: 2021-056
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In consideration of successful restoration efforts, this rule will allow a limited recreational harvest of surplus river herring spawning stock. The rule will provide opportunity for individuals to catch river herring for personal use.

Basis statement:

In consideration of successful restoration efforts at Walker's Pond in Brooksville, DMR has established a limited recreational fishery in Walker's Brook. The rule authorizes the take of river herring from May 15th through June 5th. In accordance with existing regulations and statutes, individuals may take up to 25 river herring per day using hook and line or dip net. Although fishing is allowed in Walker's Brook from May 15th through June 5th, the weekly closed periods still apply, so that fishing is prohibited from 6:00 am Thursday to 6:00 a.m. Sunday. The regulation does not expressly reference the method of take, daily limit, and weekly closed periods because these restrictions are already specified in other sections of DMR's regulations and statutes.

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, 2021 to December 31, 2021
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. 30, River Herring: 30.03, Taking of River Herring from Walker's Brook
Filing number: 2021-220
Effective date: 10/31/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

In March 2021, DMR established a limited fishery in Walker's Brook, which runs between the Towns of Brooksville and Sedgewick. However, the March 2021 rule only listed the portion of the brook that runs through the Town of Brooksville. This rule is a technical change that adds the Town of Sedgewick to the existing regulatory language. This change is intended to provide greater clarity to the public and Marine Patrol.

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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Marine Resources
Umbrella-Unit: 13-188
Statutory authority: 12 MRS §§ 6171, 6173
Chapter number/title: Ch. 32, Eels and Elvers (Elver Quota System for the 2021 Season)
Filing number: 2021-057
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Each year, the method of calculating annual elver quota must be specified for the upcoming season. In addition, this rule-making establishes a minimum tending requirement for fyke nets and Sheldon traps. Specifically, Marine Patrol Officers have observed nets and traps not being tended on a regular basis, which results in elver and bycatch mortality. Some elver harvesters have also brought this issue to the attention of Marine Patrol. Requiring tending at regular intervals is intended to address the issue raised by some harvesters and observed by Marine Patrol.

Basis statement:

This rule establishes the elver quota allocations for the 2021 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. 2021 allocations for individuals who held a license in 2020 are the same as their 2020 allocations, plus any quota associated with licenses not renewed in 2020, or licenses suspended for the duration of the 2021 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 tending requirement, so that the contents of fyke nets and Sheldon box traps are removed at least once every 16 hours. The tending requirement is intended to reduce by-catch and elver mortality by requiring harvesters to check nets and box traps on a regular basis.

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, 2021 to December 31, 2021
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: 34.07, Atlantic Halibut
(*Hippoglossus hippoglossus*)
Filing number: 2021-058
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

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.

Basis statement:

In May 2020, the Department of Marine Resources adopted an emergency rule in order to remain within the state waters subcomponent of the federal Annual Catch Limit, and to prevent accountability measures from being triggered if the Allowable Biological Catch is exceeded. The Department incorporates the emergency changes via this regular rule. This rule reduces the length of the state waters halibut season by one week at each end of the season (resulting in a season of May 18-June 13). 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.

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, 2021 to December 31, 2021
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. 36, Atlantic Herring
Filing number: 2021-116
Effective date: 6/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

This rulemaking sets the start date for the Atlantic herring fishery to commence on Sunday, June 13, 2021 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held April 22, 2021. The Days Out Commissioners designate zero landing days June 1 through June 12, 2021. The Days Out Commissioners designate five consecutive landing days, beginning June 13, 2021, from 6:00 p.m. Sunday to 6:00 p.m. Friday, weekly. Vessels issued an Atlantic Herring Limited Access Category A Permit are limited to landing 240,000 lbs. (6 trucks), weekly. 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. The Commissioner has determined that it is necessary to take emergency action to implement these effort restrictions 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 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, 2021 to December 31, 2021
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: 2021-Season 2 Closed
Filing number: 2021-200
Effective date: 10/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

The Days Out Commissioners have set zero landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. 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 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, 2021 to December 31, 2021
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: 2021-Season 2 Open
Filing number: 2021-228
Effective date: 11/6/2021
Type of rule: Routine Technical
Emergency rule: Yes

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

Basis statement:

The Days Out Commissioners have set four landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery, Monday at 12:01 a.m. through Thursday at 11:59 p.m., beginning on Monday, November 8, 2021 at 12:01 a.m. All individuals harvesting herring are required to email their pre-land haul weight three hours prior to landing to herring.dmr@maine.gov. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 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, 2021 to December 31, 2021
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. 41, Menhaden: 2021 Commercial Harvest Rules
Filing number: 2021-087
Effective date: 4/27/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rulemaking establishes the effort restrictions for the commercial menhaden fishery management program for FY2021. The State Allocation fishery opens Monday, June 14, 2021 at 12:01 AM with harvest days on Mondays, Tuesdays, Thursdays and Fridays. Vessel weekly limit is set at 23,800 pounds (68 barrels). The Episodic Event fishery will operate on Tuesdays and Fridays with a weekly vessel limit of 14,000 pounds (40 barrels). The Incidental and Small Scale fishery will operate on Mondays, Wednesdays and Fridays with a daily vessel limit of 6,000 pounds. Transfers at sea of menhaden to either a harvester or carrier vessels are prohibited during the State Allocation, Episodic Event and Small Scale fisheries. During all three fishery phases, menhaden must immediately be stored in barrels, crates or fish totes, or a combination thereof, upon harvest and remain stored either on the harvester vessel and the dory towed by the harvester vessel, if utilized for all gear types.

Menhaden cannot be transferred to another vessel while at sea. Menhaden cannot be received from another vessel while at sea. Same day reporting is required by commercial menhaden harvesters during the state allocation and episodic event fisheries.

The noncommercial menhaden fishery daily limit has been amended from 1,000 pounds to 1,050 pounds to reflect the amount landed in three barrels.

Summary of changes made:

- Proposed language on the prohibition of transferring nets at sea has been removed;
- Proposed language related to tender vessel length has been removed and clarity on harvester vessel's activity has been added;
- Definition of carrier vessel has been removed and clarity on no transfer of fish at sea has been added;
- Harvest days for state allocation fishery changed from the proposed Mondays, Wednesdays, Thursdays, Saturdays to the same schedule as FY2020 of Mondays, Tuesdays, Thursdays, Fridays;
- Harvest days for the episodic fishery changed from the proposed Wednesdays, Saturdays to Tuesdays, Fridays;
- Harvest days for the small scale fishery changed from the proposed Mondays, Wednesdays, Saturdays to Mondays, Wednesdays, Fridays; and,
- Recreational fishing does not specify a method of take except as limited 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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: Statewide Striped Bass Harvest Methods
Filing number: 2021-117
Effective date: 6/1/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

The Commissioner adopts this emergency rule to come into compliance with the Atlantic States Marine Fisheries Commission (ASMFC). Specifically, the emergency rule identifies a definition of ‘bait’ for the circle hook requirement and specifies what happens if striped bass are incidentally caught when targeting other species with non-circle hooks with bait attached.

Striped bass are 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. As states along the Atlantic coast worked to implement this regulation, many questions arose including how bait should be defined, does the requirement apply to artificial lures with bait attached, and what happens if an angler incidentally catches a striped bass with a non-circle hook. At a March 2021 meeting, the Atlantic Striped Bass Management Board approved clarifications to the striped bass circle hook requirement. This included defining bait and specifying that striped bass incidentally caught with non-circle hooks with bait attached must be released. The Board also exempted artificial lures with bait attached from the circle hook requirement, allowing Maine to maintain its current exemption for rubber and latex tube rigs.

ME DMR must modify its striped bass regulation to come into compliance with the ASMFC Striped Bass Interstate Fishery Management Plan. Further, establishing additional information on the required use of circle hooks will provide clarity to recreational anglers and support Maine Marine Patrol efforts. 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). ME DMR will follow this emergency rulemaking with regular rulemaking to provide for public comment.

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, 2021 to December 31, 2021
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: 2021-164
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

On June 1, 2021 the Department of Marine Resources adopted an emergency rulemaking to come into compliance with the Atlantic States Marine Fisheries Commission. The Department incorporated these emergency changes via this regular rulemaking. The rulemaking implements a definition of bait as it pertains to the required use of circle hooks in the recreational striped bass fishery. It also specifies what happens if a striped bass is incidentally caught while targeting other species with a non-circle hook with bait. Further, it maintains the circle hook exemption for rubber and latex tube rigs and expands the exemption to include willow leaf spinner rigs. In addition to incorporating changes from the emergency rule, this rule also clarifies language in Section 42.01(C). Specifically, it removes language prohibiting the use of treble hooks with bait given subsequent language supersedes this prohibition by only allowing for the use of circle hooks with bait. Greater definition on the required use of circle hooks will provide clarity to anglers and Marine Patrol.

In consideration of the comments received, the Department has made the following changes:

- Added willow leaf spinner rigs to the list of terminal tackle which are exempt from the circle hook requirement when fishing with bait

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, 2021 to December 31, 2021
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. 43, Bluefish
Filing number: 2021-165
Effective date: 8/10/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Bluefish and striped bass are two species whose recreational fisheries often overlap. Like the striped bass fishery, there is a circle hook requirement when fishing with bait in the recreational bluefish fishery. The Department has amended the striped bass regulations to provide greater clarity on the use of circle hooks in the striped bass recreational fishery. This includes providing a definition of bait. To ensure continued consistency between the circle hook requirements for the two fisheries, the Department has amended the bluefish regulations to adopt the same definition of bait as is in the striped bass regulations. The rule also cleans up regulatory language in Section 43.01(C), removing language prohibiting the use of treble hooks with bait given subsequent language supersedes this prohibition by only allowing for the use of circle hooks with bait. Continued consistency in the circle hook requirements for striped bass and bluefish will provide clarity to anglers and Marine Patrol.

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, 2021 to December 31, 2021
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, 6856
Chapter number/title: Ch. 94, Sanitary Control of Molluscan Shellfish
Filing number: 2021-059
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule adoption is to reference the most recent version of the model ordinance and to specify minimum compliance requirements for buying stations. The compliance requirements are intended to protect public health by ensuring that buying stations are operated in a manner that prevents contamination, deterioration and decomposition of shellstock.

Basis statement:

This rule amends ch. 94 to reference the most current version of the National Shellfish Sanitation Program Model Ordinance (Model Ordinance). The rule also specifies certain compliance requirements for the operation of buying stations. Specifically, buying station representatives need to maintain activity logs that document information such as date and time of purchase, quantity of shellstock purchased, and the date and time of harvest. The regulation also specifies that vehicles must have a mechanical refrigeration unit, onboard thermometer and a time/temperature data logger. The rule also changes the expiration date of Shellfish Sanitation Certificates, Bulk Tagging, and Buying Station Permits from June 1st to April 1st. The expiration date for wet storage permits has changed from August 1st to April 1st. The Department has processed a rule change to ch. 2 (Aquaculture Regulations), which establishes maximum seed size definitions for growing areas in the prohibited classification. In order to maintain consistency with those changes, this rule specifies that aquaculture lease and license holders may buy or possess seed from growing areas in the prohibited classification, so long as the seed size complies with definitions established in Chapter 2.

Change to proposal:

No comments were received on this proposal. However, in processing the final proposal, the agency noted that the expiration date for wet storage permits should have been changed from August 1st to April 1st. This change provides consistency with all other permit expiration dates listed in the chapter. DMR has made this change in the final proposal.

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, 2021 to December 31, 2021
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. 115, *Vibrio parahaemolyticus* Control Plan
Filing number: 2021-060
Effective date: 3/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule incorporates designated portions of the Scarborough and Nonesuch Rivers and Spinney Creek into the existing *Vibrio parahaemolyticus* (*Vp*) control plan in order to reduce the likelihood that American and European oysters (*Crassostrea virginica* and *Ostrea edulis*) and hard clams (*Mercenaria mercenaria*) harvested from these areas will cause *Vp* infections in consumers. It also updates elements of control plans to reflect best practices concerning time and temperature protocols. It also permits recreational harvest in designated control areas, so long as the municipality meets the requirements specified in the proposed regulation.

Basis statement:

This regulation adds specified areas of the Scarborough and Nonesuch Rivers and Spinney Creek to existing vibrio control areas. It changes the dates the control plan is in effect in all designated control areas from May 1st through October 31st to June 1st through October 15th. It changes the submission deadline for control plans from March 1st to April 1st. The rule also modifies what information harvesters and dealers must include in their control plans. It also permits recreational harvest in designated control areas provided the town has a municipal shellfish ordinance that issues recreational licenses, and the municipality provides vibrio education to recreational harvesters prior to the issuance of the recreational license.

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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Defense, Veterans and Emergency Management,
Maine Emergency Management Agency

Umbrella-Unit: **15-214**

Statutory authority: 37-B MRS §801

Chapter number/title: **Ch. 2**, Rules for Establishing Fees for Reporting under the
Superfund Amendments and Reauthorization Act of 1986 and
Title 37-B Sec. 801, M.R.S.A., Chapter 13

Filing number: **2021-255**

Effective date: 12/19/2021

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The final rule is identical to the proposed rule that was submitted. This new rule would increase the fees paid by facility owners and operators for registration, inventories and releases of hazardous materials in the state of Maine as reported to the State Emergency Response Commission (SERC) pursuant to the *Superfund Amendments and Reauthorization Act of 1986 and 37-B Sec. 801 M.R.S., Chapter 13*. This rule would authorize the Director of Maine Emergency Management Agency, with the advice of the State Emergency Response Commission, to change the current fee amount and fee schedule. The fees set by the Commission have not been changed since they were implemented in 2002. Due to cost of inflation, the Commission struggles to maintain an adequate level of funding for County Emergency Management Agencies, State-funded Hazardous Materials Response Teams and local trainings for first responders. This increase in the current fee schedule would allow the State Emergency Response Commission to fund local first responder trainings, equipment, planning activities and outreach in order to help facilities prepare for and respond to hazardous material incidents. Without the increase in fees, the Commission may have to cut back on funding these critical hazardous materials response teams and first responders, potentially reducing the state's ability to prepare for and respond to hazardous materials incidents.

Fiscal impact of rule:

The changes in the rule will increase the facilities' cost each year dependent upon how much of a chemical they store. Each reporting facility currently pays an inventory fee based on the average daily amounts they have for each chemical. With this rate increase, MEMA and the Commission would increase the inventory fee associated with all hazardous chemical facilities. These fees have not been changed since they were implemented in 2002 and have not kept up with inflation and the rise of administrative costs of the program. Some examples of how costs will change are outlined below.

- Facility W has 8,000 pounds of an extremely hazardous chemical. Under the current rule, \$70 is the fee. Under this new rule, \$100 is the fee.
- School District M has 12,000 pounds of a hazardous chemical. Under the current rule, \$50 is the fee. Under this new rule, \$75 is the fee.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Maine Emergency Medical Services (Maine EMS)**
Umbrella-Unit: **16-163**
Statutory authority: 32 MRS §§ 84(1)(D), 88(2)(B)
Chapter number/title: All rules
Filing number: **2021-004 to 025**
Effective date: 1/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This was a cover-to-cover review of the Maine EMS System rules, and many outdated references have been removed or updated. The Board has adopted additions to the rules to assist with the management of the Maine EMS System and to ensure optimum patient care.

Basis statement:

The Board of Emergency Medical Services felt that a cover to cover review of the Maine Emergency Medical Services (EMS) rules was necessary to bring the rules current by eliminating outdated license levels, outdated compliance dates, and references that were no longer valid. Prior to the 2019 addition of the Community Paramedicine rules, the last revision was in 2015 with an addition of the quality assurance chapter, chapter 18. This review includes modifications and additions to the rules that will improve the management of the Maine EMS System. Those modifications and additions include, but are not limited to:

- Adopting the Core Values of Excellence, Support, Collaboration, and Integrity;
- Improvements to Chapter 2. Definitions, including adding definitions for Emergency Medical Call, Full Time Dispatch, Service-Level Medical Director and Trauma;
- Clarifications and additions to Chapter 3, Ground Ambulance Service and Non-Transporting Service Licenses including transitioning all agency expiration dates to November 30, requiring patient care reports to be submitted within 24 hours, and requiring new ambulances to meet national standards;
- A significant update to Chapter 4, Air Ambulance Service Licenses, to bring the chapter in line with guidance from the National Association of State EMS Officials;
- A four-year transition to a two-year duration for personnel licenses and the integration of the National Continued Competency Program; and
- Moving the equipment lists from a list to a table.

Fiscal impact of rule:

- The litter retention systems referenced in chapter 3 will be approximately \$5,000/ambulance. This is a requirement only for new ambulances licensed after these rules are in effect. It will not require agencies to upgrade existing litter retention systems. In 2018, Maine EMS issued 37 New Vehicle Applications. There are 163 Ground Ambulance Services licensed by Maine EMS, with 503 licensed vehicles.
- Ground Ambulance Service and Non-Transporting Service applicants that are applying at or permitting to the Advanced EMT, or Paramedic level, must have a service-specific Medical Director.
- In Chapter 3-A, an Emergency Medical Dispatch Center is now required to have the electronic version of the EMD Protocol. Although there are costs associated with this, there is currently no licensed EMD center in the State of Maine that does not comply with this already.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

- Chapter 17 is the required equipment chapter; potential financial impact exists in this chapter where Maine EMS has updated the equipment requirements:
 - The count of required nasal airways has gone from four to seven
 - The count of required oral airways has gone from four to eight
 - Most if not, all services already comply with these requirements; as an example, our previous requirements of Oral airway, adult small, is not a size that is available on the market.
 - A Bougie has been added for Paramedic level services and Air Ambulance services
 - CPAP devices have been added to the AEMT, Paramedic and Air Ambulance service levels
 - Gastric Tubes have been added to the Paramedic level services and Air Ambulance services
 - A Mucosal Atomization device has been added for all levels
 - Hemostatic Agents have been added for all levels
 - Tourniquets have been added for all levels
 - Medication Pumps have been added for Paramedic level services and Air Ambulance Services
 - These items are additions from the MDPB approved equipment list and the Maine EMS Protocols. These items are already a part of every ambulance service in the state and adding them to rule is a formality.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Maine Emergency Medical Services (Maine EMS)**
Umbrella-Unit: **16-163**
Statutory authority: 32 MRS §84(1)(A)
Chapter number/title: **Ch. 20** (*New*), COVID-19 Immunization Requirements
Filing number: **2021-174**
Effective date: 8/25/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Board finds, based on the findings of the Department of Health and Human Services, that requiring certain EMS providers to be vaccinated against COVID-19 is necessary to protect the health and safety of the patients, as well as to provide force protection of its providers in order to maintain an effective emergency medical services system during this public health emergency.

Basis statement:

32 MRS Section 81-A states that the purpose of the EMS law is to provide for a comprehensive and effective emergency medical services system to ensure optimum patient care. Under that law, the provision of medical assistance in an emergency is deemed a matter of vital concern affecting the health, safety and welfare of the public. 32 MRS Section 84(1)(A) requires that the Board of Emergency Medical Services (the “Board”) adopt forms, rules, procedures, testing requirements, policies and records appropriate to carry out the purposes, requirements and goals of this law.

The Maine Department of Health and Human Services Maine (the “Department”) declared a public health emergency, effective as of July 1, 2021. After that declaration, on August 12, 2021, the Department adopted an emergency rule that requires certain entities, including EMS services, to require its employees to be immunized against COVID 19.

The Board finds, based on the findings of the Department, that requiring certain EMS providers to be vaccinated against COVID 19 is necessary to protect the health and safety of its patients, as well as to provide force protection of its providers in order to maintain an effective emergency medical services system during this public health emergency.

FINDINGS OF EMERGENCY

The Board further finds, based on the present existence of a declared public health emergency, that the immediate adoption the proposed rule is necessary to avoid an immediate threat to public health, safety or general welfare. Specifically, the Board finds that the expedient adoption of a vaccination requirement for its licensees is necessary to avoid an immediate public health threat pertaining to the transmission of COVID 19 amongst the EMS system and its patients.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 5, Portable Fire Extinguishers
Filing number: 2021-074
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The adoption of NFPA #10, *Standard for Portable Fire Extinguishers*, 2028 edition, is needed to allow for flexibility in the inspection and verification of fire extinguishers within a structure. There are also allowances for installation of additional extinguishers without requiring strict adherence to the standards, providing the protection provided by the additional extinguishers is not required as minimum compliance.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 7 (*Repeal*), Dry Cleaning Plants
Filing number: 2021-075
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule is being repealed because the adoption of the 2018 NFPA 1, *Uniform Fire Code*, in ch. 3 has incorporated the subject matter of the State Fire Marshal's rule ch. 7.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 8 (*Repeal*), Spray Applications
Filing number: 2021-076
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule is being repealed because the adoption of the 2018 NFPA 1, *Uniform Fire Code*, in ch. 3 has incorporated the subject matter of the State Fire Marshal's rule ch. 8.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 9 (*Repeal*), Dip Tanks
Filing number: 2021-077
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule is being repealed because the adoption of the 2018 NFPA 1, *Uniform Fire Code*, in ch. 3 has incorporated the subject matter of the State Fire Marshal's rule ch. 9.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 11 (*Repeal*), Bulk Oxygen and Hydrogen Systems
Filing number: 2021-078
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule is being repealed because the adoption of the 2018 NFPA 1, *Uniform Fire Code*, in ch. 3 has incorporated the subject matter of the State Fire Marshal's rule ch. 11.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §2452
Chapter number/title: Ch. 13 (*Repeal*), Welding, Cutting and Allied Processes and Acetylene Cylinder Charging Plants
Filing number: 2021-079
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule is being repealed because the adoption of the 2018 NFPA 1, *Uniform Fire Code*, in ch. 3 has incorporated the subject matter of the State Fire Marshal's rule ch. 13.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 8 MRS §236; 25 MRS §2452
Chapter number/title: Ch. 20, Fire Safety in Buildings and Structures
Filing number: 2021-030
Effective date: 1/25/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule provides establishments additional time to avoid exceeding gathering limits established by the Governor to limit the spread of COVID 19 by extending time limits on the use of temporary structures set out in current rule. Under current rule the use of temporary structures is limited to 180 days. The emergency rule extends that time to 364 days and subsequently gives restaurants, bars, schools and other establishments additional time to avoid indoor crowds exceeding gathering limits and therefore comply with The Governor's Office Executive Order #14 "An order to Implement Phase Four of the Restarting Maine's Economy Plan."

Basis statement:

On October 6, 2020, The Governor's Office issued Executive Order #14 "An order to Implement Phase Four of the Restarting Maine's Economy Plan." A critical component of the plan is to "ease restrictions safely on businesses" that could otherwise inhibit their efforts to limit the spread of the COVID-19. This rule is an emergency rule to address the issue of temporary structures during the COVID-19 pandemic and the Governor's emergency order. This will allow schools and facilities to continue to use temporary structures such as tents to allow for compliance with the Governor's executive order. Temporary structures are used to avoid indoor crowds exceeding limits on gathering at restaurants, bars, schools and other establishments identified in the order. Under current rule a temporary structure is limited to 180 days of use. This rule extends that time to 364 days allowing establishments the additional time needed to maintain efforts needed to limit the spread of COVID-19.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 8 MRS §236; 25 MRS §2452
Chapter number/title: Ch. 36, Consumer Fireworks Sales License
Filing number: 2021-132
Effective date: 6/21/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

To give our office a standard to hold facilities to when storing consumer fireworks, that is currently not addressed in our adopted rules.

Basis statement:

We currently have ch. 7 of NFPA (National Fire Protection Association) 1124 adopted, that covers the retail sales portion of consumer fireworks. It has come to our attention that several consumer fireworks retailers are currently storing consumer fireworks in storage facilities remote from their retail location. Without having the entire 1124 standard at our disposal there are not standards for consumer firework storage. LD 180 was presented to the 130th Legislature to rectify this issue but the bill has been carried over, to another session. Without this Standard we have no standard to require compliance with. This could pose a public safety issue when there are no safety standards adopted.

Fiscal impact of rule:

None; we currently inspect retail facilities.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 8 MRS §236; 25 MRS §2452
Chapter number/title: Ch. 36, Consumer Fireworks Sales License
Filing number: 2021-182
Effective date: 9/20/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To give our office a standard to hold facilities to when storing consumer fireworks, that is currently not addressed in our adopted rules.

Basis statement:

We currently have ch. 7 of NFPA (National Fire Protection Association) 1124 adopted as an emergency rule effective until September 21, 2021, which covers the retail sales portion of consumer fireworks. This routine rule will make permanent a standard for storage facilities to follow to ensure the public safety when storing consumer fireworks. The rule will incorporate in its entirety NFPA Standard 1124 “Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles”.

Fiscal impact of rule:

None; we currently inspect retail facilities.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 8 MRS §236; 25 MRS §2452
Chapter number/title: Ch. 50, Death Benefits for Firefighters Who Die in the Line of Duty
Filing number: 2021-031
Effective date: 1/25/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

Changes in statute. To meet changes to benefit amounts as set forth under 25 MRS §1612 as amended in Public Law 2019 ch. 658 §6 (AMD) this rule increases the death benefits that will be paid to survivors of firefighters who have died in the line of duty from \$50,000 to \$100,000.

Basis statement:

Changes in statute require a change in rule.

Fiscal impact of rule:

This depends upon the number of firefighters killed in the line of duty. The average number of firefighters killed per year since 2007 has been .69.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 25 MRS §1612
Chapter number/title: Ch. 50, Death Benefits for Firefighters Who Die in the Line of Duty
Filing number: 2021-080
Effective date: 4/17/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

25 MRS §1612 increased the death benefit for firefighters who die in the line of duty from \$50,000 to \$100,000. This brings ch. 50, *Death Benefits for Firefighters Who Die in the Line of Duty*, in line with the statute. This routine technical rule makes permanent emergency rule 2021-031 adopted and made effective January 25, 2021.

Basis statement:

This routine technical rule will make permanent emergency rule 2021-031 adopted and made effective January 25, 2021. The rule is being adopted to meet death benefit increases in accordance with 25 MRS §1612 from \$50,000 to \$100,000.

Fiscal impact of rule:

This depends upon the number of firefighters killed in the line of duty. The average number of firefighters killed per year since 2007 has been less than one or .69.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Gambling Control Board/Unit**
Umbrella-Unit: **16-633**
Statutory authority: 8 MRS §1003
Chapter number/title: **Ch. 5**, Internal Controls (*including* Appendix A, Minimum Internal Controls)
Filing number: **2021-236**
Effective date: 11/28/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule package changes the table game count from daily to once a week, separating days by daily drops.

Basis statement:

This is an amendment to Board Rules Chapter 5, Appendix A, regarding collection of counting of table game proceeds from a daily basis to a weekly basis while still meeting the obligations of counting, recording and distributing collected funds as required by law and rule under statutory authority of 8 MRS §1003.

Each Operator shall place on file with the Board and the Department, at a minimum once a year, the specific times during which the contents of cash storage boxes and drop boxes are to be counted and recorded. Counting and recording of cash storage boxes, at a minimum, shall be once a week. Counting and recording of drop boxes, at a minimum, shall be once a week, counting and recording each day separately.

Fiscal impact of rule:

No estimates available. Reduction in the need for use of staff time while still meeting other obligations of reporting and distribution by law and rule.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Gambling Control Board/Unit**
Umbrella-Unit: **16-633**
Statutory authority: 8 MRS §§ 1003(1)(B), 3(E), 3(J); 1020(2)(H); 1021(2)(B)
Chapter number/title: **Ch. 20**, Slot Machine and Electronic Table Game Standards
Filing number: **2021-122**
Effective date: 6/9/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule package updates ch. 20 *Slot Machine Standards*, and Appendix B, with a new version of GLI-11 and three new standards, GLI-18, 24, and 25.

Basis statement:

The rule package includes the rule ch. 20 regarding slot machine and electronic table game standards. Ch. 20 will enable the Board to regulate both slot machines and electronic table games.

The rule established for slot machine and electronic table games shall include:

- Standards for any slot machine or electronic table game to meet or exceed for shipment into Maine;
- Specific standards developed and published by Gaming Laboratories International LLC; and
- Are outlined in Appendix B, available through the Maine Gambling Control Board.

Fiscal impact of rule:

Not applicable.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Gambling Control Board/Unit**
Umbrella-Unit: **16-633**
Statutory authority: 8 MRS §§ 1003(1)(B),(1)(L),(2)(U); 8 MRS §§ 1071-1072
Chapter number/title: **Ch. 28**, Advance Deposit Wagering
Filing number: **2021-180**
Effective date: 9/14/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule package changes the collection of payments from the advance deposit wagering licensee from weekly to monthly to produce better use of staff time for small amounts.

Basis statement:

This is an amendment to Board Rules Chapter 28, subchapter 27, regarding collection of payments from advance deposit watering licensees from weekly to monthly under statutory authority of 8 MRS §1003(1)(L), 1(U) and 8 MRS §1071.

By 5:00 p.m. on the 10th day of each month for the previous month, to the Board in one payment fir distribution by the Board in accordance with 8 MRS §1072.

Fiscal impact of rule:

No estimates available. Reduction in the need for use of staff time.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Gambling Control Board/Unit**
Umbrella-Unit: **16-633**
Statutory authority: 8 MRS §1001(26); 25 MRS §§ 1001(26), 1003(1)(B),(2)(I), 3(E),3(J)
Chapter number/title: **Ch. 29**, Promotional Credits and Other Player Incentives
Filing number: **2021-120**
Effective date: 6/9/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Possibly increases revenue by allowing patrons to use gaming chips for match play that must be equivalent to or greater than the value to the promotional item.

Basis statement:

The rule package includes a change in ch. 29 regarding the controls for match play to permit patron's gaming chips used for match play must be equivalent to or greater than the value of the promotional item. Emphasis on the equivalent to or greater than.

Fiscal impact of rule:

No estimates available.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Gambling Control Board/Unit**
Umbrella-Unit: **16-633**
Statutory authority: 8 MRS §§ 1102(D), 1106(I)
Chapter number/title: **Ch. 33**, Introduction
Ch. 34, Definitions
Ch. 35, License Application
Ch. 36, License Fee and Renewal
Ch. 37, Fantasy Contest Monitoring
Ch. 38, Fantasy Contest Account Activity
Ch. 39, Registration of Fantasy Contestants;
Ch. 40, Fantasy Contestant Funds and Required Reserves
Ch. 41, Licensee Records, Annual Reporting and Audits
Ch. 42, Collection of Payments
Ch. 43, Complaints and Disciplinary Actions
Filing number: **2021-097 thru 107**
Effective date: 6/13/2021
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

This is a new set of rules to comply with changes in the state law concerning the operation of fantasy contests under 8 MRS ch. 33. The director of the Gambling Control Unit must adopt rules for the proper enforcement and administration under 8 MRS §1106.

Basis statement:

This is a new set of rules to comply with changes in the state law concerning the operation of fantasy contests under 8 MRS ch. 33. The director of the Gambling Control Unit must adopt rules for the proper enforcement and administration of under 8 MRS §1106.

The rules established for fantasy contests shall include:

- Definitions of terms used throughout the rules;
- Licensing application requirements;
- Licensing fees and requirements for renewals;
- Monitoring and system standards;
- Communications and advertising requirements;
- Eligibility requirements for establishing accounts;
- Requirements for funds and required reserves;
- Annual reporting and audit requirements; and
- Process for complaints and disciplinary actions.

Fiscal impact of rule:

Do not anticipate a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 1, Maine Uniform Building and Energy Code –
Administrative Procedures
Filing number: 2021-094
Effective date: 5/10/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The change of state statute has made it necessary to change this rule to direct and guide municipalities with their enforcement of the code. It also adds mechanical codes that are critical to the health and safety of buildings and their occupants built in Maine.

Basis statement:

Ch. 1 is an administrative chapter that clarifies who needs to enforce the MUBEC, what codes make up the MUBEC. It also establishes the amendment procedure to the code. The rule contains several critical definitions as required by statute to clarify the MUBEC. As directed by the legislature, this rule makes previously optional standards part of the code and adds one new code. Currently the rule allows for municipalities to adopt and enforce either the building or energy codes or both; this is not what statute allows and this rule needs to be in effect so that the code officials are able to enforce minimum health and safety regulations.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 1, Maine Uniform Building and Energy Code –
Administrative Procedures
Filing number: 2021-168
Effective date: 8/26/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The change of state statute has made it necessary to change this rule to direct and guide municipalities with their enforcement of the code. It also adds mechanical codes that are critical to the health and safety of buildings and their occupants built in Maine.

Basis statement:

Ch. 1 is an administrative chapter that clarifies who needs to enforce the MUBEC, what codes make up the MUBEC. It also establishes the amendment procedure to the code. The rule contains several critical definitions as required by statute to clarify the MUBEC. As directed by the legislature, this rule makes previously optional standards part of the code and adds one new code.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 3, Maine Uniform Building and Energy Code – Commercial Building Code of Maine
Filing number: 2021-153
Effective date: 8/2/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule is being adopted to allow two new industries in Maine to do business within the State. It also has code language adopted by the MUBEC Board allowing small summer cabins to be built without a sprinkler system.

Basis statement:

The 2015 International Building Code has been adopted and in place in Maine since 2018. The adoptions are updates to the current code to reflect updates to the code that the MUBEC Board felt were needed to allow two new industries in the State to conduct business within the scope of the MUBEC code. The third change is a code change allowing small summer cabins to be built without sprinkler systems. This code change as well as the others were discussed at length at public hearings and debated during MUBEC Board meetings.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 3, Maine Uniform Building and Energy Code – Commercial Building Code of Maine
Filing number: 2021-227
Effective date: 11/14/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is being adopted to allow two new industries in Maine to do business within the State. It also has code language adopted by the MUBEC Board allowing small summer cabins to be built without a sprinkler system.

Basis statement:

The 2015 International Building Code has been adopted and in place in Maine since 2018. The adoptions are updates to the current code to reflect updates to the code that the MUBEC Board felt were needed to allow two new industries in the State to conduct business within the scope of the MUBEC code. The third change is a code change allowing small summer cabins to be built without sprinkler systems. This code change as well as the others were discussed at length at public hearings and debated during MUBEC Board meetings.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 6, Maine Uniform Building and Energy Code – Energy Code
Filing number: 2021-095
Effective date: 5/10/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by statute. Title 10 §9722(6)(b) requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of the codes as listed. This new code will provide for more efficient and healthier buildings within the State of Maine. This rule also adopts the stretch energy code as required by statute by July 1st.

Basis statement:

This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by statute. Title 10 §9722(6)(b) requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of the codes as listed. As in any code adoption, some requirements are increased to provide for more efficient buildings. The new codes also address ventilation to provide a healthier living environment while providing increased energy efficiency. Some of the main areas of increased requirements are as follows. There is an increase in the insulation required on exterior walls; there are several ways to achieve this requirement that are code compliant. There is a new requirement requiring a blower door test to determine the air infiltration of a structure; along with this the requirement for air exchanges is reduced from 7 ACH to 3 ACH. There is also a requirement to install an outdoor sensor on hot water boilers to adjust water temperature depending on exterior temperature. And there are increased levels of duct insulation and pipe insulation. Depending on the size of the structure and the design approach to gain compliance, the estimate for a simple 1600 sf. structure could range from \$2,500 - \$5,000. This rule also adopts the Stretch energy code as required by July 1 by the legislature.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 6, Maine Uniform Building and Energy Code – Energy Code
Filing number: 2021-169
Effective date: 8/26/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by statute. Title 10 §9722(6)(b) requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of the codes as listed.

Basis statement:

This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by statute. Title 10 §9722(6)(b) requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of the codes as listed. As in any code adoption, some requirements are increased to provide for more efficient buildings. Some of the main areas of increased requirements are as follows. There is an increase in the insulation required on exterior walls; there are several ways to achieve this requirement that are code compliant. There is a new requirement requiring a blower door test to determine the air infiltration of a structure; along with this the requirement for air exchanges is reduced from 7 ACH to 3 ACH. There is also a requirement to install an outdoor sensor on hot water boilers to adjust water temperature depending on exterior temperature. And there are increased levels of duct insulation and pipe insulation. Depending on the size of the structure and the design approach to gain compliance, the estimate for a simple 1600 sf. structure could range from \$2,500 - \$5,000.

Fiscal impact of rule:

The financial impact will be on new construction of both residential and commercial structures; the impact is difficult to determine due to the number of ways to comply with the code and the differing size of structures and estimate to base figures on would be approximately \$2,500-\$5,000 for a 1600 sq. ft. residence.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Building Codes and Standards
Umbrella-Unit: 16-642
Statutory authority: 10 MRS §9722
Chapter number/title: Ch. 7 (New), Maine Uniform Building and Energy Code – Mechanical Code
Filing number: 2021-181
Effective date: 9/20/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This new rule adopts the 2015 IMC (*International Mechanical Conservation Code*) as directed by the Maine State Legislature.

Basis statement:

This new rule adopts the 2015 IMC (*International Mechanical Conservation Code*) as directed by the Maine State Legislature. The MUBEC Board worked with other agencies and consulted industry professionals to create a code that did not conflict with any other adopted State code.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Transportation (DOT)
Umbrella-Unit: 17-229
Statutory authority: 23 MRS §52; 35-A §2503(16); 23 CFR §645.211
Chapter number/title: Ch. 210, Utility Accommodation Rule
Filing number: 2021-067
Effective date: 4/5/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

These changes are primarily intended to clarify the intent of the existing rules and to address the following areas: the use of a geotextile with crushed stone backfill; traffic control for short-term wire crossings; aerial attachments to existing poles; services to corner lots; service consolidation for new installations with multiple highway crossings; and, underground service lines located on the highway side of ditches. An additional section addressing the potential designation of replaced or out-of-service poles as public safety hazards is also included.

Fiscal impact of rule:

No expected impacts to the General Fund.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 193
Chapter number/title: Ch. 102, Electronic Funds Transfer (EFT)
Filing number: 2021-140
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS amends Rule 102 (“Electronic Funds Transfer (EFT)”) to make various clarification and formatting changes; to update certain processes related to mandatory EFT participation and the filing of payment-related forms; to update the EFT waiver provision of the rule to reflect modern banking practices; and to update the interest and penalties provision of the rule to better reflect how the waiver/abatement provisions in Title 36 apply to payment-related penalties.

Basis statement:

Rule 102 (“Electronic Funds Transfer (EFT)”) has been amended to make various clarification and formatting changes as well as the following substantive changes.

Section .02 (“Mandatory EFT Participation”) has been amended to provide that, effective January 1, 2022, the requirement to remit all Maine tax payments electronically for which an electronic processing method is provided by the State Tax Assessor applies automatically once a person has met the conditions to become subject to the requirement. Previously, the requirement only applied once the person had met the conditions and had been specifically notified by Maine Revenue Services (MRS) that they have met the conditions. The adopted changes also provide that a person who has not previously been required to make tax payments electronically pursuant to Rule 102 will be allowed until March 1st of the calendar year they first become subject to the requirement to come into compliance.

Section .05 (“Tax Returns”) has been amended to provide that payment of taxes by electronic funds transfer automatically eliminates the necessity of filing estimate, coupon, voucher, or other similar forms otherwise required by the State Tax Assessor. Previously, Rule 102 required MRS to specifically notify a taxpayer of which forms no longer need to be filed, and the taxpayer remained responsible for timely filing any forms not identified by MRS in such a notification.

In addition, the provision in section .06 (“Request for Waiver from Mandatory EFT Participation”) that previously provided that a waiver from mandatory EFT participation will generally be allowed if the taxpayer’s bank does not participate in ACH in any form has been removed. This change reflects modernization that has occurred in the banking industry since the provision was introduced.

Finally, section .11 (“Interest and Penalties”), subsection D (“Waiver or Abatement of Penalties”) has been amended to better reflect how the waiver/abatement provisions in Title 36 apply to payment-related penalties. Notably, these changes clarify that the insufficient funds penalty under 36 MRS §187-B(5) is not subject to waiver or abatement under 36 MRS §187-B(7).

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 135
Chapter number/title: Ch. 103, Recordkeeping and Retention
Filing number: 2021-141
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Rule 103 (“Recordkeeping and Retention”) has been amended to make various clarification and formatting changes. In addition, section 9 of the rule (“Records retention—time period”) has been amended to reflect that, in addition to Title 36, Chapter 575, which was already referenced in that section, Maine’s law on the estate tax now also includes Title 36, Chapter 577, which was enacted after Rule 103 was last updated.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 193, 5220(7)
Chapter number/title: Ch. 104, Filing of Maine Tax Returns
Filing number: 2021-142
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Rule 104 (“Filing of Maine Tax Returns”) has been amended to make various clarification and formatting changes. In addition, section .01 (“Definitions”) and section .05 (“Mandatory participation – income tax withholding, competitive skills scholarship fund, and unemployment compensation insurance returns”) have been amended to reflect changes in Maine Revenue Services and Maine Department of Labor processes that have occurred since Rule 104 was last updated.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 201, 208, 305
Chapter number/title: Ch. 201, Rules of Procedure Used to Develop State Valuation
Filing number: 2021-127
Effective date: 6/17/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Amended Rule 201 clarifies current policy, adjusts for consistency, and incorporates technical changes.

The State Tax Assessor must annually perform state valuation for each municipality and for each county containing unorganized territory, to determine market value of all taxable property in the state. Municipal market values are used to calculate the distribution of municipal revenue sharing and State aid for education. Rule 201, authorized under 36 MRS §305, establishes the guidelines for the state valuation process.

Fiscal impact of rule:
(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §576
Chapter number/title: Ch. 202, Tree Growth Tax Law Valuations - 2021
Filing number: 2021-081
Effective date: 4/20/2021
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 2021-22 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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 310-314, 318
Chapter number/title: Ch. 205, Certification of Assessors (*Repeal and replace*)
Filing number: 2021-073
Effective date: 4/13/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Certification and the continuing education of property tax assessors in the State of Maine are the responsibility of the Bureau. Rule 205 (*Certification of Assessors*) governs the nature and timing of the certification examinations as well as the enforcement of the continuing education requirements established under 36 MRS §311. The Bureau has amended the rule to clarify and consistently use the terms “continuing education,” “advanced continuing education,” and “advanced assessor training.” The Bureau also removed the limitation on continuing education credit carryovers, which is rarely used and unnecessary. Other changes were made for clarification.

Fiscal impact of rule:
Minimal.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 301, Sales for Resale and Sales of Packaging Materials
Filing number: 2021-061
Effective date: 3/15/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Rule 301 is being amended to reflect that MRS no longer issues a “provisional” resale certificate. Additionally, the language in the rule is clarified throughout to reflect that a sale for resale is not an “exemption,” but rather an exclusion from retail sale, and therefore sales tax need not be collected on such sales, provided the selling retailer receives the appropriate documentation from the purchaser.

Rule 301 establishes procedures for making sales for resale, certain sales to lessors and service providers, and sales of packaging materials without collecting sales tax, and sets forth requirements for certification of such sales.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 302, Sales to Governmental Agencies and Exempt Organizations
Filing number: 2021-062
Effective date: 3/15/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Rule 302 is being amended to specifically address the bureau's authority to periodically review exemption certificates and revoke certificates if needed.

Rule 302 establishes administrative rules regarding tax-exempt sales and explains the circumstances under which a retailer or service provider will be relieved of its burden of proving that sales to an entity described in Title 36 sections 1760 or 2557, including an agency or instrumentality of the federal government or of the State of Maine, are exempt from Maine sales, use, or service provider tax.

Fiscal impact of rule:
None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 803, Income Tax Withholding Reports and Payments
Filing number: 2021-193
Effective date: 10/3/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule must be amended to clarify certain provisions, update definitions, and add new sections to account for various changes in law and processes.

Basis statement:

Maine Revenue Services (MRS) is amending Rule 803 “Income Tax Withholding Reports and Payments” (formerly, “Withholding Tax Reports and Payments”) to make various clarification and formatting changes. Specifically, MRS is making the following changes:

- MRS is changing the title of Rule 803 from "Withholding Tax Reports and Payments" to "Income Tax Withholding Reports and Payments."
- MRS is adding a definition of “foreclosure sale."
- MRS is adding a new subsection to section .03, "Persons required to withhold Maine income tax."
- MRS is updating subsection .07(E) of the rule to require a payer to electronically file annual Wage and Tax Statements and federal information statements with the Assessor when that payer is required to electronically file those forms with the Social Security Administration (for Form W-2) or with the IRS (for any type of Form 1099).
- MRS is updating section .08, "Form W-4ME," to reflect changes to the federal Form W-4, which no longer uses allowances to determine the amount of withholding. Due to this federal change, section .08 must be updated to no longer use the number of federal allowances as a starting point for calculating the number of Maine allowances an individual may claim.
- Finally, MRS is removing subsections .09(F) and .09(G) of the rule to reflect changes in MRS and Maine Department of Labor processes that have occurred since Rule 803 was last updated.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 5217-D
Chapter number/title: Ch. 812, Credit for Educational Opportunity
Filing number: 2021-027
Effective date: 1/28/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS is updating its current criteria in Rule 812, *Credit for Educational Opportunity* (the “Credit”) for determining which degrees will be considered Science, Technology, Engineering, and Mathematics (“STEM”) for refundability of the Credit. In addition, for Bachelor’s and graduate degrees that are awarded simultaneously, MRS is proposing to amend the existing language in Rule 812 to clarify how qualifying taxpayers should apportion tuition and fees to each degree when calculating the Credit.

MRS is making permanent certain changes that have already been adopted by emergency Rule 812, effective October 21, 2020, relating to calculating the Credit when the loan is in forbearance or deferment.

Lastly, MRS is adding a new definition of “regional accrediting association” to help determine if degrees from accredited non-Maine educational institutions (including non-U.S. educational institutions) are eligible for the Credit.

Basis statement:

The following changes to Rule 812 are being adopted:

The criteria for determining which degrees will be considered Science, Technology, Engineering, and Mathematics (“STEM”) for refundability of the Credit for Educational Opportunity (“Credit”) have been updated. This change is being made to provide greater clarity and transparency to taxpayers with regard to which degrees are classified as STEM.

For Bachelor’s and graduate degrees that are awarded simultaneously, Rule 812 has been updated to clarify how qualifying taxpayers should apportion tuition and fees to each degree when calculating the Credit. This change is being made to reduce taxpayer confusion and improve the accuracy of credit calculations completed by taxpayers claiming the Credit.

The changes previously adopted by emergency Rule 812, effective October 21, 2020, have been made permanent. These changes reconcile two provisions in 36 MRS §5217-D(2)(B), allowing Maine Revenue Services to consider the payment amount that would be due but for forbearance or deferment when calculating the Credit. These 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) will be used instead.

These changes are being made to ensure that taxpayers are able to receive the Credit for payments made while in forbearance or deferment, provided that the other qualifications for the Credit are also satisfied.

Lastly, a new definition of “regional accrediting association” has been added to Rule 812 for purposes of defining “accredited non-Maine community college, college or university” in 36 MRS §5217-D(A-1). This new definition is being added to help determine when degrees from accredited non-Maine educational institutions (including non-U.S. educational institutions) are eligible for the Credit.

Fiscal impact of rule:

Minimal fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Alcoholic Beverage and Lottery Operations (BABLO) /
Maine State Liquor and Lottery Commission

Umbrella-Unit: 18-553

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

Chapter number/title: Ch. 20, Powerball Rules

Filing number: 2021-125

Effective date: 8/23/2021

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

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

Basis statement:

This amendment updates the existing rules governing the jackpot draw game Powerball. This amendment makes necessary changes to add one additional drawing per week. Technical changes to clarify language, and fix typographical errors.

Fiscal impact of rule:

There is no known fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Alcoholic Beverage and Lottery Operations (BABLO) /
Maine State Liquor and Lottery Commission
Umbrella-Unit: 18-553
Statutory authority: 8 MRS §§ 372 sub-§2, 374
Chapter number/title: Ch. 50, Lucky for Life
Filing number: 2021-126
Effective date: 7/18/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This amendment updates the existing rules governing the draw game Lucky for Life. This amendment makes necessary changes to update the number of drawings, technical changes to clarify language and fix typographical errors. This amendment will allow Maine to continue selling the multi-state lottery game Lucky for Life.

Basis statement:

This amendment updates the existing rules governing the draw game Lucky for Life. This amendment makes necessary changes to update the number of drawings, technical changes to clarify language and fix typographical errors.

Fiscal impact of rule:

There is no known fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 30-A MRS §5250-M
Chapter number/title: Ch. 100, Pine Tree Development Zone Program
Filing number: 2021-195
Effective date: 10/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purposes of the rule change are to clarify the treatment of remote workers covered by the Pine Tree Development Zone (PTDZ) program, improve the procedure for handling certified businesses that fall below the required employment level, and align the state reporting dates with the current version of the authorizing statute.

Basis statement:

The basis for each component of the proposed revision to the Pine Tree Development Zone rule is as follows:

1. *Excludes remote employees working outside of a Pine Tree Development Zone (PTDZ) from the definition of qualified employee, excepting temporary remote work due to emergencies.*

An increased prevalence of remote work during the COVID-19 pandemic highlighted that the current program rule does not make clear how such workers should count towards a business's PTDZ eligibility and benefits. The revision remedies this issue by clarifying eligibility is tied to physical work location, in line with the program's intent to improve the economy in certain parts of the state, while exempting temporary remote work done in response to an emergency such as the pandemic.

2. *Specifies that a PTDZ business that falls below its employment baseline must notify DECD within 30 days of the lapse and has a total of 60 days to regain its baseline, after which they must submit a request for additional time to regain its new hire or the business will lose its PTDZ certification.*

This revision to the rule establishes a clearer process for notifying DECD of a lapse in employment baseline and sets a timeline to remedy the issue. The change is intended to create a policy that businesses can more easily adhere to while being more enforceable for DECO, relative to the current rule, in the event that a business does lose employment and cannot remain in the PTDZ program.

3. *PTDZ businesses who fall below their employment baselines due to the effects of emergencies will automatically be granted an extension to regain their required baseline level.*

The COVID-19 pandemic demonstrated that PTDZ businesses may fall below the required employment baseline due to emergency situations well outside their control and should not automatically be decertified from the program in such circumstances. While any business could, in theory, request an extension to the time period to regain the employment base level, this provision will make the extension automatic for those affected by a state of emergency.

Fiscal impact of rule:

The fiscal impact will likely be negligible. If a remote employee works outside of an eligible PTDZ, the company would only be able to claim a smaller reimbursement rate for that employee under the Employment Tax Increment Financing program. However, the difference

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

would likely be small and only apply to a small fraction of the workers covered by the PTDZ and ETIF programs. The fiscal impact of the update to the procedure of reporting employment baseline lapses would also be negligible relative to existing PTDZ management practices, which already allow for companies to request extensions to regain the required employment level.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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: 36 MRS §6759
Chapter number/title: Ch. 400, Employment Tax Increment Financing
Filing number: 2021-196
Effective date: 10/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purposes of the rule change are to clarify the treatment of remote workers covered by the Employment tax Increment Financing (ETIF) program and to align the stated reporting dates with the current version of the authorizing statute.

Basis statement:

The basis for each component of the proposed revision to the Employment Tax Increment Financing (ETIF) rule is as follows:

1. *Specifies that the ETIF reimbursement rate for employees who work remotely will be defined by their physical work location, as opposed to the company's office location, excepting employees who only work remotely temporarily within the State of Maine due to the effect of an emergency.*

An increased prevalence of remote work during the COVID-19 pandemic highlighted that the current program rule does not make clear how such workers should count towards a business's ETIF eligibility and reimbursement rate. The revision remedies this issue by clarifying eligibility is tied to physical work location, in line with the program's intent to improve the economy in certain parts of the state, while exempting temporary remote work done in response to an emergency such as the pandemic.

2. *Updates annual reporting due dates to comply with the authorizing ETIF statute as amended.*

The ETIF rule had not yet been updated to reflect the new reporting due dates as set by the Legislature's revisions to the program in PL 2019 ch. 659. The revised rule aligns the dates with the current statute.

Fiscal impact of rule:

The fiscal impact will likely be negligible and neutral. We do not have reason to believe that remote workers will systematically be claimed more often in areas of higher or lower ETIF reimbursement rates. Furthermore, the vast majority of covered workers will still be non-remote and their company's reimbursement rates and amounts will be unchanged.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §111
Chapter number/title: Ch. 62, Service Standards for Water Utilities
Filing number: 2021-190
Effective date: 9/21/2021
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The Public Utilities Commission amends its *Service Standards for Water Utilities* rule (Chapter 62) pursuant to emergency rulemaking procedures set forth in 5 M.S §8054. The purpose of the amendments is to provide guidance and procedures for water utilities who need to curtail customer water usage in a water supply emergency. The emergency amendments are informed by comments received in response to a Commission Staff notice of inquiry into possibly amending Chapter 62 to address water supply emergencies anticipated before the end of the calendar year. In addition, the Commission closes its inquiry in Docket No. 2021-00201.

Basis statement:

The factual and policy basis for this rule is set forth in the Commission's Order Adopting Emergency Rule, Docket No. 2021-00271, issued on September 10, 2021. 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:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 §§ 111, 7101, 7104
Chapter number/title: Ch. 294, Lifeline
Filing number: 2021-152
Effective date: 8/2/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to Ch. 294, *Lifeline* of the Commission's rules. Specifically, the Commission amends Chapter 294 to clarify that Eligible Telecommunications Carriers (ETCs) are currently, in certain circumstances, designated by the Federal Communications Commission (FCC) and not by the Commission. The Commission also makes clarifying and non-substantive editorial amendments to Chapter 294.

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. 2021-00045, issued on July 20, 2021. Copies of the Statement and Order have been filed with this Chapter 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, 2021 to December 31, 2021
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, 1301, 3203(9), 3210, 3210-B;
PL 2021 ch. 199
Chapter number/title: **Ch. 311**, Portfolio Requirement
Filing number: **2021-235**
Effective date: 11/21/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to its Renewable Portfolio Standard (RPS) rule (Chapter 311) as required to implement recently enacted legislation related to the new thermal renewable energy RPS. The amendments also make some cleanup edits to the rule.

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. 2021-00213, issued on November 4, 2021. 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, 2021 to December 31, 2021
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, 1301, 3209-A, 3209-B
Chapter number/title: **Ch. 313**, Customer Net Energy Billing
Filing number: **2021-245**
Effective date: 12/14/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to its Net Energy Billing (NEB) rule (Chapter 313) as required by recently enacted legislation.

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. 2021-00253, issued on November 29, 2021. 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, 2021 to December 31, 2021
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 §§ 111, 4508, 4515, 4516-A, 4705-A
Chapter number/title: **Ch. 420**, Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators
Filing number: **2021-066**
Effective date: 3/31/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to ch. 420, *Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators*. These amendments are intended to update and modernize the Commission's gas safety rules.

Basis statement:

The factual and policy basis for this chapter is set forth in the MPUC's Order Amending Rule and Statement of Factual and Policy Basis, Docket No. 2020-00282, issued on March 10, 2021. Copies of the Order have been filed with this chapter 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, 2021 to December 31, 2021
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 §§ 111, 301, 711, 2301, 2501, 2524, 7903, 8302
Chapter number/title: **Ch. 880**, Attachments to Joint-Use Utility Poles; Determination and Allocation of Costs; Procedure
Filing number: **2021-085**
Effective date: 4/26/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission adopts amendments to ch. 880 of the Commission's Rules regarding attachments to joint use utility poles. Specifically, the Commission amended ch. 880 to implement "one-touch make ready" (OTMR) in Maine and to incorporate into ch. 880 procedures and policies regarding unused (or "abandoned") joint use utility poles in public rights-of way.

Basis statement:

The factual and policy basis for this chapter is set forth in the MPUC's Order Amending Rule and Statement of Factual and Policy Basis, Docket No. 2020-00281, issued on April 8, 2021. Copies of the Order have been filed with this chapter 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, 2021 to December 31, 2021
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: 23 MRS §3360-A; 35 MRS §§ 104, 111
Chapter number/title: Ch. 895, Underground Facility Damage Prevention Requirements
Filing number: 2021-144
Effective date: 8/5/2021
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Public Utilities Commission finally adopts amendments to its *Underground Facility Damage Prevention Requirements* rule (ch. 895) as required to implement recently enacted legislation (Resolves 2021 ch. 16).

Basis statement:

The factual and policy basis for this chapter is set forth in the MPUC's Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2020-00264, issued on January 6, 2021. 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 Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
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 (4) and 8708
Chapter number/title: **Ch. 241**, Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets
Filing number: **2021-229**
Effective date: 11/15/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These changes update links to several source code resources, clarify the description of valid codes for race and ethnicity data elements, and modify descriptions for several other data elements to more accurately reflect the requirement.

Basis statement:

The Maine Health Data Organization is authorized by statute to collect health care data. Chapter 241 governs the provisions for filing hospital inpatient data sets and hospital outpatient data service sets. The provisions include identification of the organizations required to report; requirements for the content, form, medium, and time for filing the data; standards for the data reported; and compliance provisions.

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, 2021 to December 31, 2021
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: **2021-230**
Effective date: 11/15/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule update adds new fields for payment arrangement type, removes obsolete data elements, and clarifies the requirements for others.

Basis statement:

The Maine Health Data Organization is authorized by statute to collect health care data. This chapter governs the provisions for filing health care claims data sets from all third-party payers, third-party administrators, Medicare health plan sponsors, and pharmacy benefits managers. The provisions include identification of the organizations required to report; establishment of requirements for the content, format, method, and time frame for filing health care claims data; establishment of standards for the date reported; and compliance provisions.

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, 2021 to December 31, 2021
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)&(4)
Chapter number/title: **Ch. 247** (*New*), Uniform Reporting System for Non-Claims Based Primary Care Payments
Filing number: **2021-242**
Effective date: 12/12/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

It is anticipated that this new rule will improve the accuracy of the State's annual reporting of primary care spending in the state of Maine. The substance of the proposed rule is based on recommendations for uniformity in defining primary care and non-claims-based payments developed by Milbank Memorial Fund, in their report titled Measuring Non-Claims-Based Primary Care Spending. The rationale for adopting the Milbank methodology is to streamline the administrative burden for reporting entities and align with a strategy that may become the national standard adopted by the National Association of Health Data Organizations (NAHDO). Access to report is here: https://www.milbank.org/wp-content/uploads/2021/04/Measuring_Non-Claims_7-1.pdf .

Basis statement:

MHDO is required by statute to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens and to issue reports and or support the development of reports as mandated. The reason for proposing this new rule is so that MHDO's data for Primary Care payments is accurate and comprehensive in that it reflects both payments made under the traditional fee for service model {governed under ch. 243} and alternative payment models, which are non-claims based payments {governed under this proposed rule}. PL 2019 ch. 244 requires the Maine Quality Forum to develop an annual report to submit to the legislature on primary care spending in the state of Maine, using data from the Maine Health Data Organization. Currently, MHDO's data set does not reflect the total investment that payers (both private and public) are making in primary care and therefore understates the level of spending in the state of Maine. This rule provides the structure for the submission of data for non-claims based primary care payments. This will allow for accurate reporting and better inform future policy decisions specific to investments in primary care.

Fiscal impact of rule:

This rule will not have a fiscal impact on municipalities or counties, or any adverse economic impact on small businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
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**, Uniform Reporting System for Prescription Drug Price Data Sets
Filing number: **2021-231**
Effective date: 12/10/2021
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The revisions clarify the requirements for the reporting entities defined in rule ch. 570, which will ensure more uniform data submission, and streamline the data collection and validation process.

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 revisions will clarify the requirements for reporting entities, which will ensure more uniform data submission, and streamline the data collection and validation process.

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, 2021 to December 31, 2021
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: PL 2021 ch. 423; 22 MRS §§ 1406-A, 2706 sub-§2-A, 8715-A
Chapter number/title: **Ch. 730** (*New*), Interagency Reporting of Cancer Registry and Vital Statistics Data (*jointly with the Department of Health and Human Services*)
Filing number: **2021-246**
Effective date: 12/14/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The Maine Health Data Organization is authorized by statute to collect health care data. PL 2021 ch. 423, *An Act to Improve Health Care Data Analysis*, requires the Maine Health Data Organization and the Department of Health and Human Services to adopt a joint rule to require the reporting to the MHDO of data from the cancer-incidence registry established pursuant to 22 MRS §1404 and data related to the registration of vital statistics pursuant to 22 MRS §2701. This new rule meets the requirement as defined above.

The integration of the cancer registry and vital statistics data information into the MHDO data sets will enhance the data analysis in the State of Maine, specific to cancer research.

The provisions of this new rule include: identification of the agencies involved and the reporting requirements; establishment of requirements for the content, format, method, and reporting periods for the data; data integration; and confidentiality.

Fiscal impact of rule:

There is no fiscal impact on state municipalities, counties or small businesses.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-S sub-§5

Agency name: **Maine Commission on Indigent Legal Services**
Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(2)(F), (3)(B), (3)(F), (4)(D); PL 2021 ch. 398 §A-2
Chapter number/title: **Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel
Filing number: **2021-149**
Effective date: 7/21/2021
Type of rule: Major Substantive
Emergency rule: Yes

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

Basis statement:

Since July 1, 2015, MCILS Rules Chapter 301, Section 2, has authorized a rate of Sixty Dollars (\$60.00) per hour for time spent on an assigned case. Court appointed counsel operating under the MCILS system have been withdrawing from that system in part because the rate of payment for work on assigned cases did not permit counsel to operate cost efficiently. MCILS relies on appointed counsel to discharge its constitutional and statutory obligations. In Sec. A-22 of the supplemental appropriations bill passed by the Legislature for fiscal years 2021-2022 and 2022-2023, the Legislature appropriated sufficient funds to pay lawyers \$80.00/hr. for the 2021-2022 fiscal year and the 2022-2023 fiscal year. Section 2 must be amended to permit MCILS to pay appointed counsel the \$80 per hour provided by the Legislature. Without immediate action to implement the legislatively authorized rate increase, the Commission is in jeopardy of losing additional lawyers off the roster and imperiling the continued operation of the assigned counsel system.

Fiscal impact of rule:

As compared to the existing rule, the rate increase contained in this emergency rulemaking will increase the cost of providing indigent legal services by \$5,732,980 in fiscal year 2021-2022 and by \$5,732,980 in fiscal year 2022-2023.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-S sub-§5

Agency name: **Maine Commission on Indigent Legal Services**
Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(3)(L), (4)(D)
Chapter number/title: **Ch. 302**, Procedures Regarding Funds for Experts and Investigators
Filing number: **2021-150**
Effective date: 8/1/2021
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Pursuant to 5 MRS §1804(3)(L) the Commission is obligated to “[e]stablish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services[.]” This amended rule provides that the request for funds must be filed according to the procedure directed by the Executive Director. This change would create flexibility on how the information is received by the Commission staff.

Fiscal impact of rule:
No fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State, pursuant to 5 MRSA, §8053-A, sub-§5

Agency name: **Maine Public Employees Retirement System (MainePERS)**
Umbrella-Unit: **94-411**
Statutory authority: 5 MRS §17103(4)
Chapter number/title: **Ch. 104**, Limitations on Earnable Compensation for Purposes of Calculating Average Final Compensation of State Employees and Teacher Members
Filing number: **2021-113**
Effective date: 5/30/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule implements 5 MRS §17001(13)(C), the provisions in the Maine Public Employees Retirement System statute relating to limitations or “caps” on earnable compensation for the purposes of determining average final compensation for state employee and teacher members.

Basis statement:

This amended rule implements PL 2019 ch. 395, which excludes collectively bargained salary and wage increases and job promotions from the 5% and 10% average final compensation increase caps. Under the amendment, those types of increases received in a member’s primary position are automatically excluded from the cap. Increases from other positions are subject to exclusion if identified by the member. The amendment also removes obsolete language.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State, pursuant to 5 MRSA, §8053-A, sub-§5

Agency name: Maine Public Employees Retirement System (MainePERS)
Umbrella-Unit: 94-411
Statutory authority: 5 MRS §17103(4)
Chapter number/title: Ch. 414, Required Minimum Distributions
Filing number: 2021-084
Effective date: 4/19/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule establishes the date when a member must begin to receive a service retirement benefit or withdraw accumulated contributions under a retirement program pursuant to *Internal Revenue Code*.

Basis statement:

This rule establishes the date when a member must begin to receive a service retirement benefit or withdraw accumulated contributions under a retirement program pursuant to *Internal Revenue Code*. The proposed amendment makes three changes: (1) update the required minimum distribution (RMD) age to correspond to changes in federal law; (2) permit MainePERS to mandate a lump sum RMD on a terminated member as early as the beginning of the year when they will reach RMD age; and (3) provide clarification on the minimum distribution incidental benefit (MDIB) rule.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State, pursuant to 5 MRSA, §8053-A, sub-§5

Agency name: Maine Public Employees Retirement System (MainePERS)
Umbrella-Unit: 94-411
Statutory authority: 5 MRS §17103(4)
Chapter number/title: Ch. 511, Standards for Actively Seeking Work
Filing number: 2021-241
Effective date: 12/8/2021
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 September 22, 2021. No public hearing was held, and no members of the public submitted written comments prior to the October 22, 2021 comment deadline.

This rule sets out the standards and definitions to be applied in determining whether a disability retirement benefit recipient is actively seeking work. The proposed rule repeals and replaces the current rule.

The new proposed rule: (1) updates job-seeking requirements by eliminating required in-person job seeking contacts and permitting online applications; (2) specifies that job applications must be submitted to employers who are accepting applications; (3) elaborates on activities required to be taken with the Maine Department of Labor Career Center; (4) clarifies that decisions to suspend benefits are subject to the informal hearing, written decision, and appeal rights in 5 MRS §17105-A; (5) changes from six to three the number of months that the member can be noncompliant in any twelve-month period before benefits are terminated; (6) deletes an obsolete provision; and (7) removes unnecessary language and improves readability.

At the Board's regular meeting held on November 18, 2021, Ken Williams made the motion, seconded by Mark Brunton, to repeal and replace the rule. Voted unanimously by five Trustees.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State, pursuant to 5 MRSA, §8053-A, sub-§5

Agency name: Maine Public Employees Retirement System (MainePERS)
Umbrella-Unit: 94-411
Statutory authority: 5 MRS §17103(4), 18200 *et seq.*, 18252-C(5), 18801 *et seq.*
Chapter number/title: Ch. 803, Participating Local District Consolidated Retirement Plan
Filing number: 2021-197
Effective date: 10/4/2021
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, participating local district employees with optional membership who decline or terminate membership are not permitted to join or rejoin The Plan.

Basis statement:

The proposal for rule-making was noticed on July 21, 2021. Additionally, a notice of proposed rulemaking was sent to PLD employers for distribution to employee/members on August 11, 2021. This notice included information about the rulemaking as well as the deadline for written comments.

Under the current rule, participating local district employees with optional membership who decline or terminate membership are not permitted to join or rejoin the Plan. The proposed amendments incorporate the provisions of newly enacted public laws ch. 90 and 286, which extend additional membership opportunities under specific circumstances. As proposed, the provisions of ch. 286 only apply to employees of participating local districts that adopt those provisions.

The proposed amended rule also: (1) clarifies the effective date of participation agreements entered into by local districts; (2) excludes workers compensation earnings from wages subject to the return to work contribution payment; (3) removes obsolete language; and (4) corrects a cross-reference.

No public hearing was held. Comments were received from three members of the public prior to the comment deadline of August 20, 2021. Two individuals¹ commented in favor of the proposed changes that permit additional membership opportunities to certain participating local district employees. Both of these individuals commented that they are prior members who withdrew from the System and would like the opportunity to rejoin. One of those individuals² also requested the opportunity to buy back prior years of service. One individual³ commented in opposition to the proposed changes that permit additional membership opportunities. This individual opined that individuals who made prior decisions to withdraw from the System should not now be allowed to rejoin, purchase prior service and retire from the Plan. The commenter offered an alternative approach that would require those who rejoin to work some period of time rather than being able to purchase service and immediately retire.

MainePERS staff recommends one additional amendment to the rule. Specifically, to change the date by which PLD employers must adopt the provisions of Chapter 286 to be the later of November 1, 2021 or the next meeting of the elected body authorized to take that action. After distributing information to PLD employers about the changes permitted by ch. 286, MainePERS received feedback from at least one PLD employer that adopting the

¹ Bill Prout, Cumberland County Sheriff's Office and Peter Anderson, Cumberland County Sheriff's Office

² Peter Anderson, Cumberland County Sheriff's Office

³ Richard Polk, City of Old Town

Annual List of Rule-Making Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State, pursuant to 5 MRSA, §8053-A, sub-§5

provisions of ch. 286 by November 1, 2021 would be impossible given the governance structure of local governments. The additional recommended change will permit more PLD employers to make the election to allow additional membership opportunities to employees.

The PLD Advisory Committee was provided with a summary of the proposed changes. No member of the Committee raised an objection to MainePERS staff recommending these amendments to the Board of Trustees.

After considering the comments, the Board adopts the proposed changes, including the additional change recommended by staff, without further modification. The Board declined to expand the ability to purchase prior service or to impose additional work requirements as beyond the scope of ch. 286 and the proposed amendment. The Board declined to adopt the position of the commenter in opposition because the Board views the proposal as meritorious.

At the Board's meeting held on September 9, 2021, Henry Beck made the motion, seconded by Shirrin Blaisdell, to adopt the amended rule. Voted unanimously in favor by the seven members present.

Fiscal impact of rule:

None

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §969-A; 20-A MRS §11485
Chapter number/title: Ch. 611, Maine Education Savings Program
Filing number: 2021-211
Effective date: 10/10/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule amendments (a) make adjustments consistent with changes to the provisions of the *Internal Revenue Code* governing qualified tuition plans, and corresponding State legislation; (b) remove provisions that are no longer applicable to the program; (c) make adjustments to service provider terminology to reflect future multiple service providers to the program; and (d) make various clarifications which are not considered material.

Basis statement:

The rule amendments (a) make adjustments consistent with changes to the provisions of the *Internal Revenue Code* and corresponding State legislation governing qualified tuition plans; (b) remove provisions that are no longer applicable to the program; (c) make adjustments to service provider terminology to reflect future multiple service providers to the program; and (d) make various clarifications which are not considered material. No public hearing was held or requested and no comments were received during the written comment period.

In accordance with 5 MRS §8052(4) and Executive Order No. 4 FY 19/20, the agency 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:

The amendment is not anticipated to have any fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Maine State Housing Authority (MSHA)**
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: **2021-146** (*Repeal and replace*)
Effective date: 7/19/2021
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 Home Energy Assistance Program Rule. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Supplemental Benefits, weatherization, heat pumps, and heating system repair and replacement funds to low-income households in the State of Maine. This replacement rule: amends the definitions of “Heat Pump”; revises the calculation used to determine electricity costs for the consumption based method of determining a Benefit; updates the Benefit Matrix including rounding method used in determining poverty level brackets, language regarding heating degree days, and adding a new home energy type; removes reference to using an electronic verification system with the Social Security Administration; changes the fuel tank reading necessary for a Household to be eligible for ECIP; adds information regarding the Heat Pump Program; updates language regarding the amount of time a Household must reside in Maine in order to be considered eligible for HEAP; and changes the income verification period from the previous three (3) or twelve (12) month period to the previous one (1) month or thirty (30) day period. 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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Maine State Housing Authority (MSHA)**
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, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **ConnectME Authority**
Umbrella-Unit: **99-639**
Statutory authority: 35-A MRS ch. 93
Chapter number/title: **Ch. 101**, ConnectMaine Authority
Filing number: **2021-053**
Effective date: 3/8/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule implements recent changes in statute in PL 2019 ch. 625.

Basis statement:

This rule implements the changes in law in PL 2019 ch. 625 that changes the requirements for data reporting from internet service provider to the ConnectMaine authority. The statute makes the information designated as confidential and not a public record under Title 1 section 402 sub-section 3. This includes new reporting info.

The rule also changes the name of the ConnectME Authority to the ConnectMaine Authority, makes minor changes in the planning grant portion of the rule and updates some of the definitions used in the rule.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **ConnectME Authority**
Umbrella-Unit: **99-639**
Statutory authority: 35-A MRS ch. 93
Chapter number/title: **Ch. 101**, ConnectMaine Authority
Filing number: **2021-261**
Effective date: 1/2/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Recent changes in the law impacting the assessment fee, and needed changes to infrastructure and planning grants to reflect current needs and federal funding.

Basis statement:

The posted rule makes the required changes to implement PL 2021 ch. 398, section AA, which expands the 10 cents per line surcharge to additional phone lines.

It includes in the required data reporting section, data that will be needed to use new federal funding to determine eligibility for grants.

The rule also changes the definition of underserved to reflect the recent changes in ConnectMaine's unserved definition.

It makes changes in the infrastructure grants program to reflect the input ConnectMaine has received as a result of public outreach, and the increase in federal funds coming for broadband. These changes will allow ConnectMaine greater flexibility in developing and evaluating applications. It also updates to the required reporting for grantees.

It simplifies the community broadband planning grants process for communities.

The adoption of this rule will clarify certain provisions of the grant making process, allowing the Authority to provide greater support for projects that provide the greatest relative improvement of service. The rule will allow for flexibility in the evaluation process to address state policy goals, and to reflect the changes in the use of broadband service as a result of the pandemic response. It also will allow for more community engagement in the grant process.

Fiscal impact of rule:

Increase in assessment fees (other special revenue) by an estimated \$1,000,000 annually. This will have no fiscal impact on the state budget.