**State of Maine: Notice of Agency Rulemaking – January 19, 2022**

**PROPOSALS**

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 305**, Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P007**

BRIEF SUMMARY: The Public Utilities Commission initiates a rulemaking to amend certain provisions of ch. 305, the rule that governs the licensing requirements, annual reporting, enforcement, and consumer protection provisions for the competitive provision of electricity. The proposed rule is intended to conform ch. 305 to recent legislative changes regarding competitive electricity providers (CEPs), the door-to-door marketing of retail energy supply, and the registration of third-party sales agents. The proposed rule also includes changes intended to improve customer protection standards regarding the marketing practices of CEPs, and otherwise includes changes intended to provide consistency and clarity, and to reflect the current electronic filing practices of the Commission.

PUBLIC HEARING: February 8, 2022 - 3:00 p.m. via Microsoft Teams. *Interested persons may dial in to the hearing at (207) 209-4724, and enter Conference ID 330754097#. Interested persons wishing to participate in the hearing using video may contact the Presiding Officer, Amy Mills, at* *Amy.Mills@Maine.gov* *to request a link.*

COMMENT DEADLINE: February 22, 2022. Initial written comments on the proposed rule may be filed until February 8, 2022. Final written comments on the proposed rule may be filed no later than February 22, 2022. Written comments should refer to the docket number of this proceeding, Docket No. 2021-00396, and be filed using the Commission’s case management system which is accessible from the Commission’s website.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amy Mills, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1388. Email: Amy.Mills@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 35-A MRS §§ 104, 111, 3203

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

MPUC WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc) .

MPUC RULEMAKING LIAISON: Jamie.A.Waterbury@Maine.gov.

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 314**, Statewide Low-income Assistance Plan

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P008**

BRIEF SUMMARY: The Public Utilities Commission initiates a rulemaking proceeding to consider amendments to its *Statewide Low-Income Assistance Plan* rule (ch. 314).

PUBLIC HEARING: February 10, 2022, 2:00 p.m. *The Commission will conduct the hearing remotely via Microsoft Teams. Interested persons wishing to participate in the hearing by telephone may dial (207) 209-4724 and enter conference ID 834 052 072#. Interested persons wishing to participate in the hearing using video may contact the Presiding Officer by email at* *Paulina.Collins@Maine.gov* *for a link.*

COMMENT DEADLINE: February 21, 2022. Written comments on the proposed rule may be filed with the Administrative Director until close of business on February 21, 2022. However, the Commission requests that comments be filed by close of business on February 7, 2022 to allow for follow-up inquiries during the hearing; supplemental comments may be filed after the hearing. Written comments should refer to the docket number of this proceeding, Docket No. 2021-00400, and be filed using the Commission’s case management system which is accessible from the Commission’s website.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Paulina Collins, Public Utilities Commission, 18 State House Station, Augusta, ME 04333. Telephone: (207) 287-1566. Email: Paulina.Collins@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 35-A MRS §§ 104, 111, 704, 1308, 3214

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

MPUC WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc).

MPUC RULEMAKING LIAISON: Jamie.A.Waterbury@Maine.gov.

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 8**, Landings Program (Halibut Reporting)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P009**

BRIEF SUMMARY: This proposed rulemaking updates the frequency of harvester reporting for Maine’s halibut fishery, implementing weekly harvester reporting during the halibut season for Maine’s territorial waters. Harvester reports must be submitted via an approved electronic mechanism no more than two days after the end of each reporting week. The data elements required in the harvester report remain unchanged.

PUBLIC HEARING: February 10, 2022 - 5:00 p.m., *in-person at the Marquardt Building, Room 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR’s website under “Meetings.” An alternate public hearing may be held at 4:00 p.m. on February 11, 2022 at the same location/format. Notice of a cancellation would be posted to DMR’s website.* Hearing facilities*: If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: February 21, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: 207-624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6173

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

DMR RULEMAKING WEBSITE: <http://www.maine.gov/dmr/rulemaking/>.

DMR WEBSITE: <https://www.maine.gov/dmr/index.html>.

DMR RULEMAKING LIAISON: Deirdre.Gilbert@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 818** *(New)*, Renewable Chemicals Tax Credit

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P010**

BRIEF SUMMARY: MRS is proposing to adopt Rule 818 (“Renewable Chemicals Tax Credit”) as authorized by 36 M.S §5219-XX(5). The nonrefundable credit, enacted by PL 2019 ch. 628 and amended by PL 2021 ch. 181, applies to tax years beginning on or after January 1, 2021. The rule addresses required information reporting by taxpayers and third-party testing of renewable chemicals for purposes of the credit.

PUBLIC HEARING: N/A

COMMENT DEADLINE: February 23, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §§ 112, 5219-XX(5)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

MRS WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue).

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

**ADOPTIONS**

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel

ADOPTED RULE NUMBER: **2022-007**

CONCISE SUMMARY: This rule amends the MCILS fee schedule and administrative procedures for payment of Commission assigned counsel to provide for some discretion for the Executive Director to authorize payment of a voucher submitted after 90 days of the triggering date upon a showing of good cause. The rule also clarifies what constitutes a triggering event for billing purposes and sets the fee amounts that trigger presumptive review for specific case types.

EFFECTIVE DATE: January 17, 2022

MCILS CONTACT PERSON / RULEMAKING LIAISON: Justin W. Andrus, Esq., Executive Director, Maine Commission on Indigent Legal Services, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Email: Justin.Andrus@Maine.gov.

MCILS WEBSITE: <https://www.maine.gov/mcils/>.

AGENCY: **16-219** –Department of Public Safety (DPS), **Maine State Fire Marshal’s Office (FMO)**

CHAPTER NUMBER AND TITLE: **Ch. 15**, Fire Protection for Medical Facilities and Equipment

ADOPTED RULE NUMBER: **2022-008**

CONCISE SUMMARY: This routine technical rule addresses the numerous technological changes made to and materials used in, medical facilities today as opposed to 2005.

EFFECTIVE DATE: January 18, 2022

FMO CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Maine State Fire Marshal’s Office, 45 Commerce Drive – Suite 1, 52 State House Station, Augusta, ME 04333. Telephone: (207) 592-6150. Email: Richard.E.Taylor@Maine.gov.

FMO WEBSITE: <https://www.maine.gov/dps/fmo/>.

AGENCY: **16-219** –Department of Public Safety (DPS), **Maine State Fire Marshal’s Office (FMO)**

CHAPTER NUMBER AND TITLE: **Ch. 19**, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations (*formerly* Vapor Removal from Cooking Equipment)

ADOPTED RULE NUMBER: **2022-009**

CONCISE SUMMARY: This routine technical rule addresses changes in the operation of commercial and private cooking operations made since 2008.

EFFECTIVE DATE: January 18, 2022

FMO CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Maine State Fire Marshal’s Office, 45 Commerce Drive – Suite 1, 52 State House Station, Augusta, ME 04333. Telephone: (207) 592-6150. Email: Richard.E.Taylor@Maine.gov.

FMO WEBSITE: <https://www.maine.gov/dps/fmo/>.

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS) - Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. I Section 6** *(New)*, Global HCBS Waiver Person-Centered Planning and Settings Rule

ADOPTED RULE NUMBER: **2022-010**

CONCISE SUMMARY: This new rule implements the federal requirements for Maine’s Section 1915(c) home and community-based waiver programs as set forth in 42 CFR §441.301(c), and includes requirements for person-centered service planning and for settings in which home and community-based waiver services (“HCBS”) are provided, including requirements for provider-owned or controlled residential settings. Adoption of this rulemaking means that the rule is judicially enforceable. See 5 MRS §8002(9). The Department adopted this rule implementing these requirements in order to be in compliance with federal Medicaid law and regulations, so that the Department can continue to receive federal funding for HCBS waiver programs.

The adopted rule implements additional requirements or changes to HCBS waiver programs under the following sections of the *MaineCare Benefits Manual*:

**Section 18**: Home and Community-Based Services for Adults with Brain Injury;

**Section 19**: Home and Community Benefits for the Elderly and Adults with Disabilities;

**Section 20**: Home and Community-Based Services for Adults with Other Related Conditions;

**Section 21**: Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder; and

**Section 29**: Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder.

In the event of conflict between the requirements of this adopted rule and any rule listed above, the terms of the adopted rule will supersede and shall apply.

The rule tracks closely the federal requirements set forth in 42 CFR §441.301(c). It clarifies that the Member leads the person-centered planning process and that the process should reflect the Member’s cultural considerations and provide necessary information to allow the Member to make informed choices and decisions. The rule outlines what must be contained in the person-centered service plan, requires that it must be understood and agreed to by the Member, and provides when and how a modification may be made to the person-centered service plan. The rule establishes general requirements for HCBS settings so that the setting ensures the Member’s rights of privacy, dignity and respect, freedom from coercion and restraint, and facilitates individual choice regarding HCBS waiver services and settings.

There are additional requirements for provider-owned or controlled residential settings. These include Members having privacy in their sleeping or living unit, Members having freedom to access food at any time, and Members having the ability to have visitors at any time. The adopted rule also contains a provision related to certain disability-specific settings (such as Sec. 18 Work Ordered Club House Services). The rule leaves open the Department’s ability to amend Sec. 18, Sec. 20, Sec. 21 and/or Sec. 29 regulations through rulemaking to impose additional requirements.

The adopted rule outlines requirements for provider qualifications as well as Department oversight and enforcement to ensure full compliance with HCBS waiver services and related sections of the *MaineCare Benefits Manual*, including Ch. I Sec. I, General Administrative Policies and Procedures.

The Department shall submit to CMS and anticipates CMS approval of Waiver amendments related to this rule.

The rule will become effective 5 days after the finally adopted rule is filed with the Secretary of State’s office, per 5 MRS §8052(6). The rule provides for a prospective application date for HCBS settings that were approved as settings prior to March 17, 2014, for Sections 6.04(A) (Home and Community-Based Settings - General Requirements) and 6.04(B) (Additional Requirements for Provider-Owned or Controlled Residential Settings) which will have a prospective application date of September 30, 2022.

Finally, as a result of public comments and further review by the Department and the Office of the Attorney General, there were additional minor grammatical and formatting changes to the adopted rule language.

The Summary of Public Comments and Department Responses document identifies more specifically all changes that were made to the final rule.

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

EFFECTIVE DATE: January 19, 2022

OMS CONTACT PERSON: Heather Bingelis, Comprehensive Health Planner, DHHS – OMS - Division of Policy, 109 Capitol Street- 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-6951. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: Heather.Bingelis@Maine.gov.

OMS WEBSITE: <https://www.maine.gov/dhhs/oms>.

OMS RULEMAKING LIAISON: Jennifer.Patterson@Maine.gov.

DHHS WEBSITE: <https://www.maine.gov/dhhs/>.

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov.