**State of Maine: Notice of Agency Rulemaking – January 31, 2024**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **16 - 642 -** Department of Public Safety, Office of State Fire Marshal, **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 1,** Maine Uniform Building and Energy Code – Administrative Procedures

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P017**

BRIEF SUMMARY: Chapter 1 is an administrative chapter that clarifies who needs to enforce the MUBEC, and 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.

PUBLIC HEARING: n/a

COMMENT DEADLINE: March 4, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Gregory Day, Assistant Fire Marshal, Office of the State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052. Telephone: 207-626-3888, Email: Gregory.J.Day@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 10 M.R.S. §9722

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

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Richard.E.Taylor@maine.gov

AGENCY: **16 - 642 -** Department of Public Safety, Office of State Fire Marshal, **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 2,** Maine Uniform Building Energy Code – Third Party Inspectors (“TPI”)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P018**

BRIEF SUMMARY: This chapter sets forth the methods by which municipalities may utilize a Third Party Inspector (TPIs) as an option. A TPI certified by the Maine Department of Economic and Community Development is authorized to enter into a private agreement for remuneration with an Applicant or with a municipality or municipalities, to conduct inspections under 30-A M.R.S. §4451 for compliance with the Maine Uniform Building and Energy Codes, to issue a Notice to Proceed to the Applicant and to issue an inspection report to the municipality for the issuance of a certificate of occupancy.

PUBLIC HEARING: n/a

COMMENT DEADLINE: March 4, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Gregory Day, Assistant Fire Marshal, Office of the State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052, Telephone: 207-626-3886, Email: Gregory.J.Day@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: n/a

STATUTORY AUTHORITY FOR THIS RULE: 10 M.R.S. §9723.

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

AGENCY WEBSITE: [https://www.maine.gov/dps/fmo/](https://www.maine.gov/dps/fmo/fire-service-laws/rules/proposed)

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Richard.E.Taylor@maine.gov

AGENCY: **16 - 642 -** Department of Public Safety, Office of State Fire Marshal, **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 4,** Maine Uniform Building Code – Existing Building Code

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P019**

BRIEF SUMMARY: This chapter establishes the Existing Building code component of the Maine Uniform Building and Energy Code (“MUBEC”) and the Maine Uniform Building Code (“MUBC”). The provisions of this chapter are based on a nationally recognized model building code published by the International Code Council, Inc., and is made part of the MUBEC through incorporation by reference. This chapter also contains requirements for the enforcement of the Existing Building code by local building officials in municipalities with a population of greater 4,000 residents.

PUBLIC HEARING: n/a

COMMENT DEADLINE: March 4, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Gregory Day, Assistant Fire Marshal, Office of the State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052, Telephone: 207-626-3888, Email: Gregory.J.Day@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: n/a.

STATUTORY AUTHORITY FOR THIS RULE: 10 M.R.S. §9722, sub-§6

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

AGENCY WEBSITE: <https://www.maine.gov/dps/fmo/fire-service-laws/rules/proposed>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Richard.E.Taylor@maine.gov

**AGENCY**: **02-313 -** Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Board of Dental Practice**

TYPE OF RULE: Routine Technical

CHAPTER NUMBER AND TITLE: Proposed Amendments to the following chapters:

**Ch. 2,** Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities; **Ch. 3,** Qualifications for Expanded Function Dental Assistant Licensure; **Ch. 4,**  Qualifications for Dental Radiography 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. 12,** Practice Requirements; **Ch. 13,** Continuing Education

PROPOSED RULE NUMBER): **2024-P020 to 2024-P027**

BRIEF SUMMARY: The purpose of the rulemaking proposal is to fully implement the various statutory changes pursuant to three public laws during the 131st First Special Legislative session - see P.L. 2023 ch. 165 (temporary licensure), P.L. 2023 ch. 351 (dental hygiene/dental therapy); and P.L. 2023 ch. 17 (Part P Dental’s move into OPOR). The proposed change to Chapter 3 is to align the rule with the statutory requirements found in 32 M.R.S. §18344(1)(B).

PUBLIC HEARING: N/A

COMMENT DEADLINE: March 8, 2024 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Penny Vaillancourt, Executive Director, Board of Dental Practice, 143 State House Station, Augusta, ME 04333; Telephone: 207-287-3333; Fax: 207-287-8140; TTY 711; Email: penny.vaillancourt@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None known.

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. § 18324, § 18344(1)(B); P.L. 2023 ch. 165 (eff. 10/25/2023), P.L. ch. 354 (effective 10/25/2023), and P.L. 2023 ch. 17 (eff. 06/29/2023.

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

AGENCY WEBSITE: [www.maine.gov/](http://www.maine.gov/)dental

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: penny.vaillancourt@maine.gov

AGENCY: 10 144 - Department of Health and Human Services, MaineCare Services, **Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101,** **Chapters II and III, Section 23,** Developmental and Behavioral Health Clinic Services

TYPE OF RUE: Routine Technical

PROPOSED RULE NUMBER: **2024-P028, 2024-P029**

CONCISE SUMMARY: **I. MaineCare Benefits Manual, Chapter II, Section 23, Developmental and Behavioral Health Clinic Services**

 The Department of Health and Human Services (the “Department”) proposes the following changes to 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter II, Section 23, Developmental and Behavioral Evaluation Clinic Services.

 The proposed rule adds “Foster Care Comprehensive Health Assessments” (CHA) as a covered service in accordance with P.L. 2019, ch. 162 (An Act To Ensure the Provision of Medical Assessments for Youth in Foster Care), codified at 22 MRSA §4063-A. The new service will provide timely, comprehensive evaluations for children in foster care that align with the Child Welfare League of America (CWLA) and the American Academy of Pediatrics Standards for Health Care Services for Children in Out of Home Care.

 This service includes an initial comprehensive assessment that includes a medical exam, a psychosocial evaluation, and a final report that is submitted to the Department. The service also includes a six (6) to eight (8) month follow-up comprised of another medical evaluation and a psychosocial evaluation. Providers who meet the criteria to provide the CHA do not have to hold a Developmental and Behavioral Evaluation Clinic contract with the Department.

 The rule adds a cost of living adjustment in accordance with 22 MRSA §3137-J (2)(D)(3). Each July 1st the Department will apply an annual cost of living adjustment proportional to the percentage increase in the Maine minimum wage, as determined by the Maine Department of Labor, so long as the service has not received any other adjustments within the previous twelve months. The Maine Department of Labor determines the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Northeast Region, as published by the United States Department of Labor, Bureau of Labor Statistics, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢.

 Other proposed changes to the rule include adding a definition of “trauma-informed care,” which is a requirement to provide CHAs, making structural changes, removing unnecessary provisions, and making minor technical changes.

**II. MaineCare Benefits Manual, Chapter III, Section 23, Allowances for Developmental and Behavioral Evaluation Services**

 The Department proposes to repeal 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter III, Section 23, and list the specific reimbursement rates for the three services in the Chapter II and on the MaineCare Provider Fee Schedule available on the Department's website in accordance with 22 MRS §3173-J.

 This rulemaking complies with 22 M.R.S. §3173-J. The Department issued a Rate Determination Initiation Notice on October 14, 2022. The Department held a public rate forum on November 23, 2022, to collect stakeholder input and comments to inform the Rate Determination process and accepted written comments through December 2, 2022.

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

PUBLIC HEARING:8:30am; Tuesday, February 20, 2024

The Department will hold a combined in-person and remote (via Zoom) public hearing.

Location: State Office Building, Conference Rooms Maine A and Maine B

109 Capitol Street, Augusta, ME

**Zoom Meeting link:** <https://mainestate.zoom.us/j/88019527507>

**Meeting ID:** 880 1952 7507

*Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to attend the hearing in person contact the agency person listed below 5 days in advance of the hearing.*

In addition to the public hearing, individuals may submit written comments to DHHS by the date listed in this notice.

COMMENT DEADLINE: Comments must be received by 11:59 PM on March 1, 2024.

AGENCY CONTACT PERSON/SMALL BUSINESS IMPACT STATEMENT:Laurel Noddin, Comprehensive Health Planner II, MaineCare Services, 109 Capitol Street, 11 State House Station, Augusta, Maine 04333-0011. Email: Laurel.Noddin@maine.gov Telephone 207-624-4019 FAX: (207) 287-6106, TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any):The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

STATUTORY AUTHORITY:22 M.R.S. §§42, 3137-J,4063-A

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON:Emily.A.Cathcart@maine.gov

**ADOPTIONS**

**AGENCY: 01-015** - Department of Agriculture, Conservation and Forestry, **Maine Milk Commission**

CHAPTER NUMBER AND TITLE: **Ch. 3,** Schedule of Minimum Prices Order#02-24

ADOPTED RULE NUMBER: **2024-014**

CONCISE SUMMARY: Minimum February 2024 Class I price is $21.24/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt as being prevailing in Southern New England and $0.47/cwt. handling fee for a total of $24.58/cwt. that includes a $0.20/cwt Federal promotion fee.

EFFECTIVE DATE: January 28, 2024

AGENCY CONTACT PERSON/RULEMAKING LIAISON: Julie-Marie R. Bickford, Maine Milk Commission, DACF, 28 SHS, Augusta, ME 04333. Telephone: 207-287-7521.  Email: Julie-Marie.Bickford@Maine.gov
MMC RULES WEBSITE: <https://www.maine.gov/dacf/milkcommission/statutes_rules.shtml>
COMMISSION WEBSITE: <https://www.maine.gov/dacf/milkcommission/index.shtml>

AGENCY: **01-026** - Department of Agriculture, Conservation and Forestry, **Board of Pesticides Control**

CHAPTER NUMBER AND TITLE: **Ch. 20,** Special Provisions; **Ch. 31,** Certification and Licensing Provisions/Commercial Applicators; **Ch. 32,** Certification and Licensing Provisions/Private Applicator

ADOPTED RULE NUMBER: **2024-015, 2024-016, 2024-017**

CONCISE SUMMARY: The amendments to these chapters would require applicators to follow certain standards for proper identification of treatment sites with outlined penalties for violations, combine all of the 7C categories into one category, 7C: Disinfectant and Biocide Treatments, and incorporate federal rule by reference for age restrictions of uncertified applicator working under private applicators that are immediate family members.

EFFECTIVE DATE: January 30, 2024

AGENCY CONTACT PERSON: John Pietroski, Board of Pesticides Control, 28 SHS, Augusta, ME 04333. Telephone: 207-287-2731.

BOARD WEBSITE: <https://www.maine.gov/dacf/php/pesticides/index.shtml>

AGENCY: **10-144** - Department of Health and Human Services, **Office for Family Independence**

CHAPTER NUMBER AND TITLE: **Ch. 333,** Low Cost Drugs for the Elderly and Disabled (DEL) Manual, **MC Rule #305** – DEL Asset Test Removal

ADOPTED RULE NUMBER: **2024-018**

CONCISE SUMMARY: The adopted rule change removed the asset test, Section 2.1, effective retroactive to January 1, 2024. The adopted rule change is based on a legislative change to 22 M.R.S. § 254-D(4)(B) made by P.L. 2023, ch. 412, Part EEEEE. Retroactive rulemaking is permissible under 22 M.R.S. § 42(8) as this update provides a benefit to recipients and applicants.

The Department determined it necessary to make a non-substantial change to the final rule. Section 2.1, Assets, “Liquid assets are defined in 10-144 CMR Ch. 332 Part 16, *MaineCare Eligibility Manual.*” is removed from the adopted rule as this sentence is irrelevant and unnecessary.

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

See <https://www.maine.gov/dhhs/about/rulemaking> for rules and related rulemaking documents.

EFFECTIVE DATE: February 4, 2024

AGENCY CONTACT PERSON: Adam Hooper, MaineCare Program Manager, Office for Family Independence, Department of Health & Human Services, 109 Capitol Street, Augusta, ME 04333. Phone: (207)624-4178/ Fax: (207)287-3455, TT Users Call Maine Relay – 711. Email: Adam.Hooper@maine.gov

**AGENCY:** 10-144 - Department of Health and Human Services, **Maine Center for Disease Control and Prevention**

CHAPTER NUMBER AND TITLE: **Ch. 242,** Rules for Conversion of Seasonal Dwelling Units into Year-Round Residences in the Shoreland Zone

ADOPTED RULE NUMBER: **2024-019** (Repeal)

CONCISE SUMMARY:The Department is adopting the repeal of this rule as it has adopted amendments to Maine’s Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241 (Ch. 241). The Department clarified the requirements and updated the language within Section 8(B)(1) of Chapter 241, so that all subsurface wastewater disposal requirements are combined within one rule at Chapter 241. This amended language to Ch. 241 make the requirements in Ch. 242 no longer applicable, therefore necessitating the repeal of this rule.

EFFECTIVE DATE:February 4, 2024

AGENCY CONTACT PERSON: Andrew Hardy, DHHS, 11 SHS - 286 Water Street, Augusta, ME 04333-0011. Telephone:(207) 287-4490. Email: andrew.hardy@maine.gov

AGENCY WEBSITE: <http://www.maine.gov/dhhs/mecdc/rules/>

AGENCY: **13-188 - Department of Marine Resources**

CHAPTER NUMBER AND TITLE: **Chapter 11.08,** Targeted Closures: (8) Upper Englishman Bay Rotational Area; (9) Upper Addison Rotational Area; (10) Cobscook, Whiting & Dennys Bay; (11) Upper Frenchman Bay; (12) Toothacher and Upper Swans Island Rotational Area

ADOPTED RULE NUMBER: **2024-020** (Emergency)

CONCISE SUMMARY:The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in Cobscook, Whiting & Dennys Bay (Zone 3), Upper Frenchman Bay, Toothacher and Upper Swans Island rotational areas (RA) and expanded closures in Addison and Englishman Bay RA (Zone 2). The Department is concerned that continued harvesting for the remainder of the 2023-2024 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2023 Scallop surveys that are 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 five important scallop harvest areas. For these reasons, the Commissioner hereby adopts an emergency closure of Maine’s scallop fishery in these areas as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: January 28, 2024

AGENCY CONTACT PERSON: Melissa Smith, Department of Marine Resources, State House Station 21, Augusta, Maine 04333-0021. Phone: (207-441-5040), Fax: (207) 624-6024, TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Melissa.Smith@maine.gov

WEB SITE: <http://www.maine.gov/dmr/rulemaking/>