**State of Maine: Notice of Agency Rulemaking – June 5, 2024 (web)**

**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: 94-089 Maine Historic Preservation Commission

CHAPTER NUMBER AND TITLE: 810, Maine Historic Restoration Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: 2024-P187

BRIEF SUMMARY: This action repeals the rule.

PUBLIC HEARING *(if any)*:

COMMENT DEADLINE: July 8, 2024

CONTACT PERSON FOR THIS FILING: Kirk F. Mohney, Maine Historic Preservation Commission, 65 SHS, Augusta, ME, 04333-0065, 207-287-3811

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*:

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

STATUTORY AUTHORITY FOR THIS RULE: 27 MRSA §504

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

AGENCY WEBSITE: https://www.maine.gov/mhpc/

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kirk.Mohney@maine.gov

AGENCY: 94-089 Maine Historic Preservation Commission

CHAPTER NUMBER AND TITLE: 811, Historic Property Preservation and Restoration Grants [New Title]

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: 2024-P188

BRIEF SUMMARY: This action amends the rule to make it consistent with recent amendments to 27 MRSA §505.D in PL 2023, c. 9, §1. The amended rule would also accommodate the provisions of the bond authorized by PL 2023, c. 653, should it be approved by voters.

DETAILED SUMMARY:This rule was originally adopted in 1986 in response to the establishment of a program of state financed grants for the restoration of historic buildings (27 MRSA §505.D). Recent amendments to 27 MRSA §505.D in PL 2023, c. 9, §1 necessitate revisions to the rule. It changes the title; it incorporates the *Secretary of the Interior’s Standards for the Treatment of Historic Properties* (36 CFR Part 68) as the guide for evaluating the quality of work with state grant funds in place of the Chapter 810 rule (which will be repealed concurrently); it changes the program from one for historic building restoration grants to one for a program of state financed grants for the preservation and restoration of historic properties; it adds more definitions; it reorganizes the sections and makes textual changes; and it deletes the appendices. The amended rule would also accommodate the matching share provisions of the bond authorized by PL 2023, c. 653, should it be approved by voters.

PUBLIC HEARING *(if any)*:

COMMENT DEADLINE: July 8, 2024

CONTACT PERSON FOR THIS FILING: Kirk F. Mohney, Maine Historic Preservation Commission, 65 SHS, Augusta, ME, 04333-0065, 207-287-3811

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STATUTORY AUTHORITY FOR THIS RULE: 27 MRSA §504

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

AGENCY WEBSITE: https://www.maine.gov/mhpc/

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kirk.Mohney@maine.gov

**ADOPTIONS**

AGENCY: 06-096 Department of Environmental Protection

CHAPTER NUMBER AND TITLE: Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining

ADOPTED RULE NUMBER: 2024-128

CONCISE SUMMARY: In response to P.L. 2023, ch. 398, the Department has amended the existing Chapter 200: *Metallic Mineral Exploration, Advanced Exploration and Mining* (06-096 C.M.R. 200) to allow applications for exclusion from Chapter 200 requirements. In accordance with the law, this will allow applications for exclusion for the physical extraction, crushing, grinding, physical sorting, or storage of metallic minerals. The rule revision creates a process for exclusion applications that includes pre-application geologic and hydrologic investigations and criteria for granting an exclusion.

EFFECTIVE DATE: June 22, 2024

AGENCY CONTACT PERSON: Naomi Kirk-Lawlor, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333; naomi.kirk-lawlor@maine.gov; 207-287-7844

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

CHAPTER NUMBER AND TITLE: Chapter 3-Schedule of Minimum Prices Order#06-24

ADOPTED RULE NUMBER: 2024-129

CONCISE SUMMARY: Minimum June 2024 Class I price is $23.33cwt. 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 $26.67/cwt. that includes a $0.20/cwt Federal promotion fee.

EFFECTIVE DATE: June 2, 2024

AGENCY CONTACT PERSON: Julie-Marie R. Bickford

AGENCY NAME: Maine Milk Commission, DACF

ADDRESS: 28 SHS, Augusta, ME 04333

TELEPHONE: 207-287-7521

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

CHAPTER NUMBER AND TITLE: Chapter 26, Producer Margins

ADOPTED RULE NUMBER: 2024-130

CONCISE SUMMARY: The principal reasons for this rulemaking are the need to establish producer margins for milk marketing areas within the State of Maine under 7 M.R.S. Section 2954, and the requirement in 7 M.R.S. Section 3153-B to adopt four tiers of production with short-run break-even points within each tier for use in the Maine Dairy Stabilization “Tier” Program.

EFFECTIVE DATE: Thursday, June 27, 2024

AGENCY CONTACT PERSON: Julie-Marie Bickford

AGENCY NAME: Maine Milk Commission, Department of Agriculture, Conservation & Forestry

ADDRESS: 28 SHS, Augusta, ME 04333

TELEPHONE: 207-287-7521

AGENCY: 10-144 DHHS Maine Center for Disease Control and Prevention

CHAPTER NUMBER AND TITLE: Chapter 269 – Rules Governing Self-contained Breath Alcohol Testing Equipment

ADOPTED RULE NUMBER: 2024-132

CONCISE SUMMARY: The Department is adopting amendments to Chapter 269 on an emergency basis, to immediately implement the allowance of the dry gas standard when performing accuracy checks and calibration adjustments on breath alcohol testing instruments. This rule change ensures dry gas standard qualifies under this rule for admissibility in Maine’s courts, aligning with the industry standards (National Highway Traffic Safety Administration (“NHTSA”) and National Institute of Standards and Technology (“NIST”)). In accordance with 5 MRS § 8054, this rule is effective for 90 days.

EFFECTIVE DATE: Tuesday, May 28, 2024

AGENCY CONTACT PERSON:

NAME: Bridget Danis, Policy Analyst; Maine CDC

ADDRESS: 286 Water Street, Augusta, ME 04333-0011;

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

DEPARTMENT RULES WEBSITE: https://www.maine.gov/dhhs/about/rulemaking

AGENCY: Department of Health and Human Services, Maine Center for Disease Control and Prevention

CHAPTER NUMBER AND TITLE: 10-144 CMR Ch. 201, Health Inspection Program Administration Rule

ADOPTED RULE NUMBER: 2024-133

CONCISE SUMMARY: The Department’s Health Inspection Program (HIP) is adopting changes to its rule, to update requirements consistent with PL 2021, ch. 125, as well as to clarify language that improves protection of patrons of eating establishments, lodging places, campgrounds, recreational and sporting camps, youth camps, and public pools/spas in Maine. These changes include the addition and clarification of definitions, the removal of the waiver for an alternative entity performing inspections of youth camps, an increase in licensing fees for delegated municipalities, and an increase in administrative fine amounts for establishments operating without a license or committing other violations. The Department has renamed this rule from Administration and Enforcement of Establishments Licensed by the Health Inspection Program Rule to the Health Inspection Program Administration Rule.

EFFECTIVE DATE: JUNE 3, 2024

AGENCY CONTACT PERSON:

NAME: Andrew Hardy

ADDRESS: 11 SHS - 286 Water Street, Augusta, ME 04333-0011

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E-MAIL ADDRESS: andrew.hardy@maine.gov

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

AGENCY: 13-188A Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 36 Atlantic Herring; 2024 Season 1 Open

ADOPTED RULE NUMBER: 2024-134

CONCISE SUMMARY: The Days Out Commissioners have set zero landing days for June 1 through June 30, 2024, at 6:00 p.m. for Season 1 (Trimester 2; June 1 – September 30) of the Atlantic herring fishery. Beginning on Sunday, June 30, 2024, at 6:01 p.m., five landing days have been designated: Sundays at 6:00 p.m. through Fridays at 6:00 p.m. Weekly landing limit for Atlantic herring Category A permitted vessels is 320,000 pounds. Harvester vessels may not transfer herring at-sea to a carrier vessel. Carrier vessels may not receive herring from a harvester vessel while at-sea. 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 M.R.S. §6171(3)(C).

EFFECTIVE DATE: Friday, May 31, 2024

AGENCY CONTACT PERSON: Melissa Smith

AGENCY NAME: Department of Marine Resources

ADDRESS: 21 State House Station

 Augusta, Maine 04333-0021

WEB SITE: <https://www.maine.gov/dmr/rules-enforcement>

E-MAIL: Melissa.Smith@maine.gov

TELEPHONE: (207) 441-5040

FAX: (207) 624-6024

TTY: (207) 633-9500 (Deaf/Hard of Hearing)

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

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 331; Public Assistance Manual Temporary Assistance for Needy Families (TANF) - Table of Contents, Chapter I, Eligibility Process, Chapter II, Eligibility Requirements (non-financial), Chapter III, Asset Limits, IV, Budgeting Process, Chapter V, Transitional Benefits, Appendices – Maximum Benefit and Standard of Need and Worksheet for Calculating TCC Parent Fees and Subsidy Payments

TANF Rule #118A – Noncitizen Language

ADOPTED RULE NUMBER: 2024-135

CONCISE SUMMARY: The adopted rule clarifies program requirements in Chapters I, II, IV and V for applicants and the Department as they relate to non-citizen eligibility. These requirements are consistent with 42 U.S.C. § 602 and 45 C.F.R. § 260. Asset limit changes in Chapter III are consistent with P.L. 2023 Ch. 366, *An Act to Allow Maine Families to Increase Their Savings by Changing the Asset Limits for Eligibility for the Temporary Assistance for Needy Families Program*.

The adopted rule clarifies Chapter V (3)(c) by waiving the Parent Fee Requirement for any family with a gross weekly income equal to or less than 250%. Ch. V (4)(c)(ii) calculation of the parent fee is updated to align with Ch. V (3)(c) as permitted by 22 M.R.S. § 3762(8)(C).

The adopted rule removes “Escalating Sanctions” and associated language from Ch. II (F)(1)(d), (H)(3), and (H)(3)(a)(i and ii). Ch. II (H)(3) provides clarification to benefits termination due to failure to comply with program requirements. In addition, this rule removes Chapter II (H)(3)(f). This provision has a retroactive application to June 1, 2022, as required by P.L. 2021, ch. 97, §§ 1 and 2.

Pursuant to 22 M.R.S. § 3762(8)(C), Appendix Charts page 3, Worksheet For Calculating TCC Parent Fees and Subsidy Payments, is updated based on Federal Poverty Level (FPL) figures published in the Annual Update of the HHS Poverty Guidelines, 88 Fed. Reg. 3424. <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>. This provision has retroactive application dates to February 5, 2023 and February 4. 2024.

Chapter III, Asset limit changes consistent with P.L. 2023 Ch. 366 are effective retroactive to October 25, 2023.

22 M.R.S. § 3769-C(1)(D) requires that the Department increase Appendix Chart, page 2, Standard of Need and Maximum Grant, each October based on the Cost-of-Living Increase used by the Social Security Administration. This rulemaking applies these changes effective retroactive to October 1, 2023.

Retroactive rulemaking is authorized by the Legislature in accordance with 22 M.R.S. § 42(8) because the rule provides a benefit to recipients and beneficiaries and does not have an adverse financial effect on either providers or recipients.

The adopted rule removes the definitions of Aliens and Alien sponsors and adds the following definitions: Noncitizen, Noncitizen Sponsor, Executive Office for Immigration Review (EOIR), Immigration Court, and United States Department of Justice (DOJ). A number of updates are made to the adopted rule as a result of public comment and are outlined in the Basis Statement and Summary of Comments.

The Department finds that it is necessary to update the Charts: Appendix – Weekly Gross Income by Family Size effective February 4, 2024 to remain in compliance with corresponding federal standards set by the U.S. Department of Health and Human Services. This update is consistent with the 2024 Federal Poverty Levels published in the Annual Update of the HHS Poverty Guidelines, 89 Fed. Reg. 2961. https://www.federalregister.gov/documents/2024/01/17/2024-00796/annual-update-of-the-hhs-poverty-guidelines, updated at https://aspe.hss.gov/poverty-guidelines on January 17, 2024. This is a retroactive change to cover the period from February 4, 2024 through until June 3, 2024.

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

EFFECTIVE DATE: Tuesday, June 4, 2024

AGENCY CONTACT PERSON:

Alexandria Lauritzen, TANF Program Manager

Office for Family Independence

Department of Health & Human Services

109 Capitol Street

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AGENCY: 01-017 Department of Agriculture, Conservation and Forestry, Maine State Harness Racing Commission

CHAPTER NUMBER AND TITLE: Chapter 1, Administration ; Chapter 7, Racing; Chapter 11, Medications, Prohibited Substances and Testing ; Chapter 17, Violations and Penalties.

ADOPTED RULE NUMBER: 2024-136 to -139

CONCISE SUMMARY:

The changes are to promote and ensure the efficiency and integrity of racing meets, to make the rules clearer for both participants and racing officials, and to protect the betting public as well as the horses that compete.

The changes to Chapter 1 include:

• Sec.1 adding definitions for Purse, Recovery Slip, and Poor Performance;

• Sec. 10 modifying and adding grounds for suspension, revocation, refusal, or denial of a license

• Sec. 21 updating the Breath Analyzer Test rule to clarify the testing process and potential outcomes/discipline for violation of the rule;

• Sec. 22 clarifying that it is a violation to fail to submit to testing

The changes to Chapter 7 include:

• Sec. 6 (9) a horse may be asked to go a qualifying mile;

• Sec. 7 adding Poor Performance, scratching a horse in the post parade, or fails to finish a race for reasons other than broken equipment, as reasons for a horse to be placed on the Steward’s List;

• Sec. 7(4) requiring a sick horse or lame horse placed on the Steward’s List to produce a Recovery Slip before being allowed to enter;

• Sec. 8 adding clarifying language for preference;

• Sec. 9 adding language regarding when hopples may be used;

• Sec. 16 (C) allowing a Race Secretary to carry over an event to the next day;

• Sec. 30 defining the draw procedure and that the Judges will conduct the draw when there is more than one division;

• Sec. 46(3)(B) adding that the Trainer may be required to be in the paddock

• Sec. 51 adding time that horses need to be in the paddock;

• Sec. 52 (1) changing the minimum age to enter the paddock from 12 to 14;

• Sec 54. (o) added language to Leaving the Course;

• Sec. 60 added the word inside to the existing rule.

The changes to Chapter 11 include:

• Sec. 4 (2) (B) Changing eligibility for the use of Furosemide; Sec. 4 changes the procedure for the administration of Furosemide;

The changes to Chapter 17 include:

• Sec. 4 Updating the Penalty Schedules

• Sec. 15 adding a reason for a horse not being allowed to compete.

The changes above will promote and ensure the efficiency and integrity of racing meets. The rule changes will benefit the licensees and others involved in harness racing by making changes to ensure that all participants are being given an equal opportunity to compete on a level playing field. These changes are geared to ensure the safety and welfare of the horses that participate.

EFFECTIVE DATE: Saturday, June 8, 2024

AGENCY CONTACT PERSON: Shane Bacon

AGENCY NAME: Maine State Harness Racing Commission

ADDRESS: 28 State House Station, Augusta, ME 04333-0028

TELEPHONE: 207-287-7568