**State of Maine: Notice of Agency Rulemaking – June 30, 2021**

**PROPOSALS**

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE: **Ch. 28**, Advance Deposit Wagering

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P109**

BRIEF SUMMARY: The rule package changes the collection of payments for the advance deposit wagering licensee from weekly to monthly.

PUBLIC HEARING: None applicable

COMMENT DEADLINE: August 6, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Milton Champion, Gambling Control, 45 Commerce Drive, Suite 3 – 87 State House Station, Augusta ME 04333-0087. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE:8 MRS §§ 1003(1)(B),(1)(L),(2)(U), 1071-1072

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/dps/gamb-control/> .

DPS RULEMAKING LIAISON: Christopher.Parr@Maine.gov .

AGENCY: **01-001 - Department of Agriculture, Conservation and Forestry (DACF)**

CHAPTER NUMBER AND TITLE: **Ch. 31**, Rules for Operation of Potato Marketing Improvement Fund

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P110**

**BRIEF SUMMARY**: 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%. This draft rule reflects the change to the law.

**DETAILED SUMMARY**: 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 is necessary to make ensure our rules are consistent with this law.

**PUBLIC HEARING**: N/A

COMMENT DEADLINE: Close of Business on Friday, July 30, 2021.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Yvette Meunier, 28 State House Station, Augusta, ME 04333. Cell: (207) 592-0640. Fax: (207) 287-7548. Email: Yvette.Meunier@Maine.gov .

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

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS §12; 10 MRS §1023-N

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

AGENCY WEBSITE: <https://www.maine.gov/dacf/> .

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov .

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 5** *(New)*, Advisory Rulings

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P111**

BRIEF SUMMARY: 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.

Copies of the proposed rule are available upon request by contacting the Department contact person or on the Department of Corrections website at <https://www.maine.gov/corrections/policies-procedures-proposed-rules> . *Pursuant to Maine law, interested parties are publicly notified of the proposed rulemaking and are provided an opportunity for comment. Written comments may be submitted by mail, e-mail, or fax to the contact person before the end of the comment period. To ensure the comments are considered, they must include the name of the commenter and the organization represented, if any.*

PUBLIC HEARING: None

COMMENT DEADLINE: August 2, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MDOC RULEMAKING LIAISON: Mary Lucia, Department of Corrections, 111 State House Station, Augusta ME 04333. Telephone: (207) 530-0983. Fax: (207) 530-0983. Email: Mary.A.Lucia@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §9001; 34-A MRS §1403

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

MDOC WEBSITE: <https://www.maine.gov/corrections/> .

AGENCY: **10-148** - Department of Health & Human Services (DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 32** *(New)*, Child Care Facility Licensing Rule - Child Care Centers, Nursery Schools, Small Child Care Facilities, Other Programs.

PROPOSED RULE NUMBERS: **2021-P112, P113**

BRIEF SUMMARY: The Department is proposing rulemaking to repeal ch. 32, *Rules for the Licensing of Child Care Facilities*, and ch. 36, *Rules for the Licensing of Nursery Schools*. The Department proposes to replace these two rules with one combined rule ch. 32, *Child Care Facility Licensing Rule - Child Care Centers, Nursery Schools, Small Child Care Facilities, Other Programs*. This proposed rule updates the current regulations and merges and consolidates requirements for Child Care Facilities including, Child Care Centers, Nursery Schools, Small Child Care Facilities, and Other Programs.

Substantive changes from the current rules to the proposed rule include adding the federal requirements of the 2014 reauthorization of the Child Care and Development Block Grant (CCDBG), 42 U.S.C. §9857 *et seq*., changing requirements necessary to meet the health and safety needs of children in Child Care Facility settings, and removing and modifying provisions in the current rules in order to streamline requirements and processes.

Additionally, on May 10, 2021, the Federal Office of Child Care issued guidance for States regarding requirements for the almost $24 billion dollars in child care stabilization funding included in the *American Rescue Plan Act of 2021* (Public Law No:117-2) that requires Child Care Facilities are in compliance with all CCDBG health and safety requirements in order to be eligible to receive stabilization grant money. Maine will begin administering the grants on or about October 1, 2021.

Significant changes 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;
* Requiring an applicant to complete pre-licensure health and safety training;
* Adding the requirement for compliance with 10-148 C.M.R 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 P.L. 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 65º 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;
* 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.

PUBLIC HEARING: Tuesday, July 20, 2021 at 1 p.m. *Due to the COVID-19 pandemic, this hearing will be conducted via a Zoom.*

COMMENT DEADLINE: Friday, July 30, 2021 at 5 p.m.

CONTACT PERSON FOR THIS FILING: Janet Whitten, DHHS – OCFS, 2 Anthony Avenue - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. Email: LicensingRules.OCFS@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORYAUTHORITY FOR THIS RULE: 22 MRS §§ 7702-B, 7703, 7704, 7707, 7802, 8301, 8301-A, 8302-A, 8303-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Federal Child Care and Development Block Grant (CCDBG)

OCFS POLICY WEBSITE: <https://www.maine.gov/dhhs/ocfs/policy.shtml> .

OCFS WEBSITE: <https://www.maine.gov/dhhs/ocfs> .

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

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Internal Controls: **Appendix A**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P114**

BRIEF SUMMARY: The rule package changes the table game count from daily to once a week, separating days by daily drops.

PUBLIC HEARING: None applicable

COMMENT DEADLINE: August 6, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT STATEMENT / AGENCY RULEMAKING LIAISON: Milton Champion, Gambling Control, 45 Commerce Drive, Suite 3 – 87 State House Station, Augusta ME 04333-0087. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 8 MRS §1003

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/dps/gamb-control/> .

DPS RULEMAKING LIAISON: Christopher.Parr@Maine.gov .

**ADOPTIONS**

AGENCY: **02-031** - Department of Professional & Financial Regulation (P&FR), **Bureau of Insurance**

CHAPTER NUMBER AND TITLE: **Ch. 942**, Rating Factors and Loss Ratio Requirements for Health Plans.

ADOPTED RULE NUMBER: **2021-133**

CONCISE SUMMARY: The purpose of the proposed 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*.

EFFECTIVE DATE: June 28, 2021

BUREAU CONTACT PERSON / RULEMAKING LIAISON: Benjamin Yardley, Senior Staff Attorney, Department of Professional & Financial Regulation, Bureau of Insurance, 76 Northern Avenue (34 State House Station, Augusta 04333), Gardiner, ME 04345. Telephone: (207) 624-8537. Email: Benjamin.Yardley@Maine.gov .

BUREAU WEBSITE: <https://www.maine.gov/pfr/insurance/> .

AGENCY: **12-152** - Department of Labor (DOL), **Bureau of Rehabilitation Services (BRS)**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Division of Vocational Rehabilitation Services Rules

ADOPTED RULE NUMBER: **2021-134**

CONCISE SUMMARY: This rule governs the administration of Maine’s vocational rehabilitation program and makes changes 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.

EFFECTIVE DATE: June 28, 2021

DOL CONTACT PERSON / RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, ME 0433-0054. Telephone: (207) 626-6232. Email: Isaac.H.Gingras@Maine.gov .

DVR WEBSITE: <https://www.maine.gov/rehab/dvr/index.shtml> .

AGENCY: **12-152** - Department of Labor (DOL), **Bureau of Rehabilitation Services (BRS)**

CHAPTER NUMBER AND TITLE: **Ch. 12**, Rules for the Communication Equipment Fund Program for People with Disabilities

ADOPTED RULE NUMBER: **2021-135**

CONCISE SUMMARY: The rules govern the provision of funds for purchase, lease, upgrading, installation, maintenance and repair of specialized customer telecommunication equipment for persons with disabilities. Revisions are needed for consistency with amended state statute that more accurately reflects current communication technology, which no longer requires an emergency alert notification system for deaf or hard-of-hearing persons.

EFFECTIVE DATE: June 28, 2021

DOL CONTACT PERSON / RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, ME 0433-0054. Telephone: (207) 626-6232. Email: Isaac.H.Gingras@Maine.gov .

DVR WEBSITE: <https://www.maine.gov/rehab/dvr/index.shtml> .

AGENCY: **02-318** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Electricians’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 120**, Electrical Installation Standards

ADOPTED RULE NUMBER: **2021-136** *(Repeal and replace)*

CONCISE SUMMARY: The adopted rule repeals 02-318, ch. 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.

EFFECTIVE DATE: July 2, 2021

AGENCY CONTACT PERSON: Catherine M. Carroll, Board Administrator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Electricians’ Examining Board, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Catherine.M.Carroll@Maine.gov .

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov .

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/electricians> .