**State of Maine: Notice of Agency Rulemaking – July 24, 2024 ONLINE**

**NOTICE OF STATE RULEMAKING**

**PUBLIC INPUT FOR RULES**  A list of state agency rule proposals is published here each Wednesday. You can get a copy of a proposed rule by contacting the person listed in the notice. You can comment on a proposed rule by submitting a written comment to the agency or by attending the public hearing, if one is scheduled. If no hearing is scheduled, you can request one.  The agency must hold a hearing if it receives 5 or more requests.  If you have a disability and need assistance to participate in a hearing you should tell the agency at least 7 days before the hearing. **ONLINE INFORMATION** Weekly notices, full text of adopted rules, and a list of agency rulemaking contacts are available at this website: [https://www.maine.gov/sos/cec/rules/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2Findex.html&data=05%7C02%7CJ.Chris.Parr%40maine.gov%7C645b27059f0346864d7008dc94834bf0%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638548538834447354%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=K93i9Iukz%2F4M1hnG1XnmVSNiEpRD2zB99vb6RheIZ8A%3D&reserved=0)

**PROPOSALS**

**AGENCY: 02-382 Department of Professional and Financial Regulation, Affiliated Board, Maine Board of Optometry**

**CHAPTER NUMBER AND TITLE: Chapter 1: Fees, Chapter 3: License by Endorsements: Chapter 4: Treat Glaucoma. Chapter 5: Telehealth Standards, use and Limitations, Chapter 6: Code of Ethics**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P213 to -P217**

BRIEF SUMMARY: The Board is undergoing a review of all existing chapters including application for examination, license endorsement approved schools, license renewal requirements, fees, ethics, and continuing education. Such broad rulemaking is required because the Governor signed a full repeal and replace of the laws as enacted by the 131st legislative sessions and the new law needs clarifying rules. Rulemaking authority is conferred by 32 M.R.S.A. sec. 19204

PUBLIC HEARING *(if any)*: August 9, 2024, 1:00 p.m. at Department of Professional and Occupational Regulation, Kennebec Conference room  at 76 Northern Ave. Gardiner, ME 04345

COMMENT DEADLINE: August 20, 2024, 5:00 p.m.

CONTACT PERSON FOR THIS FILING: Tina Carpentier, 113 State House Station, Augusta, ME 04333, Phone: 207-624-8691, Fax: 207624-8637 and email: [tina.carpentier@maine.gov](mailto:tina.carpentier@maine.gov).

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*:none

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

STATUTORY AUTHORITY FOR THIS RULE: Chapter 1: Fees 32 M.R.S.A. sec.19202 (3), sec.19305 (1), Chapter 3: License by Endorsements: 32 M.R.S.A. sec.19303, Chapter 4: Treat Glaucoma: M.R.S.A. sec.19304, Chapter 5: Telehealth Standards, use and Limitations:32 M.R.S.A. sec.19601-19605, Chapter 6: Code of Ethics: 32 M.R.S.A 19402 (1) (B).

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:none

AGENCY WEBSITE: https://www.maine.gov/pfr/professionallicensing/professions/maine-state-board-optometry

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: O. D. Thomas Nadeau (tpnod@roadrunner.com)

**AGENCY: 10-149 Department of Health and Human Services, Office of Aging and Disability Services**

**CHAPTER NUMBER AND TITLE:** **Repeal Title 14-197, Chapter 3, Definition of Mental Retardation and Autism; Appeal Procedure; Replace with Title 10-149, Chapter 5, Section 2, Developmental Disability Services for Adults with an Intellectual Disability or Autism Spectrum Disorder**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P218, -P219**

BRIEF SUMMARY: The purpose of the rulemaking is to clarify the application process for Developmental Services available at OADS that are supported exclusively with state funds. The rule also removes descriptions of internal agency processes regarding client intake and eligibility determination, updates the tests for determining whether an applicant has an intellectual disability (abandoning the harmful terminology of years past) and Autism Spectrum Disorder, and identifies the state-funded Developmental Disability Services available from OADS.

Specifically, this rulemaking proposes to:

* repeal 14-197 C.M.R. ch. 3 and its definitions and appeal processes;
* replace that rule with a new rule to be codified as 10-149 C.M.R. ch. 5, sec. 2;
* establish an explicit process for applying for and receiving Developmental Disability Services from OADS;
* clarify that state-funded Developmental Disability Services are distinct from and unaffected by eligibility for MaineCare services, including HCBS Waiver services for adults with an Intellectual Disability or Autism Spectrum Disorder;
* adopts specific definitions applicable to applications for state-funded Developmental Disability Services;
* updates the tests for determining whether an applicant has an intellectual disability or Autism Spectrum Disorder, in reference to the current characterizations of those disabilities in statute and in the Diagnostic and Statistical Manual of Mental Disorders;
* adds requirements for providing notice of the Department’s decisions regarding applications for Developmental Disability Services;
* withdraws the current appeal process, including Director- and Commissioner-level reviews, and replaces this process with an appeal process that utilizes the administrative hearing process applicable to other state-funded and MaineCare eligibility determinations;
* adds a timeliness standard for such appeals; and
* adds a statement of the Department’s obligation to preserve the confidentiality of applications and their review and disposition.

The proposed rulemaking also would align the structure and numbering of the replacement rule with OADS’ current rulemaking format.

The Office of Aging and Disability Services (OADS) is currently divided into two Chapters: 10-149 (formerly the Office of Elder Services) and 14-197 (formerly the Office of Adults with Cognitive and Physical Disability Services). OADS is completing the process of combining these two former State agencies into one by eliminating use of 14-197 and creating a single comprehensive OADS Policy Manual under 10-149. This rulemaking repeals the current 14-197 Chapter 3 and replaces it with 10-149, Chapter 5, Section 2: Developmental Disability Services.

The proposed rule also contains many formatting corrections, ensures use of gender-neutral language, and includes many clarifying edits.

Finally, the Department does not anticipate that this rule will have any impact on municipalities, counties, or small businesses.

See the [DHHS rulemaking webpage](https://www.maine.gov/sos/cec/rules/10/chaps10.htm) for rules and related rulemaking documents.

PUBLIC HEARING: The public hearing will be held at 9am Eastern Time (US and Canada) on Wednesday August 14, 2024, at the Department of Health and Human Services, 109 Capitol St., Augusta, ME. An online option is available via Zoom at: <https://mainestate.zoom.us/j/84404300581?pwd=WWtLidhbdbCVaEcw4pG9aNTLq1VzB3.1>.

COMMENT DEADLINE: The Department will accept comments via e-mail and U.S. Mail until 11:59 PM Eastern Time (US and Canada) on Saturday August 24, 2024.

CONTACT PERSON FOR THIS FILING:

Connor Kelley

Maine Department of Health and Human Services

Office of Aging and Disability Services

41 Anthony Avenue

Augusta, Maine 04333-0011

PHONE: 207-592-1952

EMAIL: [OADS.Rulemaking@maine.gov](mailto:OADS.Rulemaking@maine.gov)

FAX: (207) 287-9915

TTY: 711 (Deaf or Hard of Hearing)

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

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

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. § 42(1); 22-A M.R.S. § 205; 34-B M.R.S. §§ 5432, 5465, and 6003

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/dhhs/oads>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: [emily.a.cathcart@maine.gov](mailto:emily.a.cathcart@maine.gov)

**ADOPTIONS**

**AGENCY: 94-270 Commission on Governmental Ethics and Election Practices   
CHAPTER NUMBER AND TITLE: Chapter 1: Procedures   
ADOPTED RULE NUMBER: 2024-160**

**CONCISE SUMMARY:**

This rule implements 21-A M.R.S. § 1064, which prohibits foreign governments from spending money to influence Maine state elections.

**EFFECTIVE DATE: Saturday, July 20, 2024**

AGENCY CONTACT PERSON: Julie Aube, Commission Assistant; Commission on Governmental Ethics and Election Practices; 135 State House Station, Augusta, ME 04333-0135; 207-287-4179; Julie.Aube@maine.gov

**AGENCY:** **12-172 Department of Labor, Bureau of Unemployment Compensation**

**CHAPTER NUMBER AND TITLE: Chapter 24, Approved Trainings**

**ADOPTED RULE NUMBER: 2024-167**

**CONCISE SUMMARY:**

The amendments to the Rule update and clarify the criteria and procedure for approved training, which waives the eligibility requirements to be able and available for work and to search for work.

**EFFECTIVE DATE: Tuesday, July 23, 2024**

AGENCY CONTACT PERSON: Isaac H. Gingras

AGENCY NAME: Department of Labor

ADDRESS:54 State House Station

Augusta, ME 0433-0054

TELEPHONE: 207-626-6232

**AGENCY: 17-229 Department of Transportation**

**CHAPTER NUMBER AND TITLE: Chapter 602, Rules Relating to Maine State Ferry Service Tolls**

**ADOPTED RULE NUMBER: 2024-168**

**CONCISE SUMMARY:**

The Maine Department of Transportation (MaineDOT) is responsible for establishing the tolls for the use of the Maine State Ferry Service. The proposed tolls below update the tolls set out in Schedule A of MaineDOT’s Rules Relating to Maine State Ferry Service Tolls (Chapter 602).

**EFFECTIVE DATE: Thursday, August 1, 2024**

AGENCY CONTACT PERSON: Anne Paré, Maine Department of Transportation, 16 State House Station, Augusta, ME 04333, (207) 624-3020; anne.m.pare@maine.gov

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

**CHAPTER NUMBER AND TITLE: Chapter 41 Menhaden Emergency Regulation Repeal**

**ADOPTED RULE NUMBER: 2024-169**

**CONCISE SUMMARY:**

On July 14, 2024 the Department of Marine Resources implemented an emergency regulation, which limited the commercial menhaden fishery to a daily limit of 5,950 lbs. and removed the weekly limit. DMR is now repealing that emergency regulation, which will restore the previous weekly limit of 17,850 lbs. available to be taken on Mondays, Wednesdays, and Fridays only.

The Commissioner hereby repeals the emergency regulation as authorized by 12 M.R.S. §6192(5).

**EFFECTIVE DATE: Sunday, July 21, 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/regulations-rules/emergency-regulations

E-MAIL: Melissa.Smith@maine.gov

TELEPHONE: (207) 441-5040

FAX: (207) 624-6024

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

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

**CHAPTER NUMBER AND TITLE: Chapter 3-Schedule of Minimum Prices Order#08-24**

**ADOPTED RULE NUMBER: 2024-170**

**CONCISE SUMMARY:**

Minimum **August 2024** Class I price is **$24.57/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 **$27.91/cwt**. that includes a $0**.20**/cwt Federal promotion fee.

**EFFECTIVE DATE: Sunday, July 28, 2024**

AGENCY CONTACT PERSON: Julie-Marie R. Bickford

AGENCY NAME: Maine Milk Commission, DACF

ADDRESS: 28 SHS, Augusta, ME 04333

TELEPHONE: 207-287-7521