**State of Maine: Notice of Agency Rulemaking – August 9, 2023**

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

CHAPTER NUMBER AND TITLE: **Ch. 317**, Statewide Arrearage Management Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P150**

BRIEF SUMMARY: On June 9, 2023, The Office of the Public Advocate petitioned the Commission to make the following changes to the Statewide Arrearage Management Program as recommended by the Electric Ratepayer Advisory Council: 1) allow participants to miss two payments before disqualification from the program; 2) allow a ratepayer to participate once every seven years rather than once in a lifetime; 3) allow all Low-income Assistance Program (LIAP) eligible ratepayers to qualify for AMP; and 4) increase the maximum monthly AMP benefit to $500 a month (which increases the total amount eligible for forgiveness to $6000 a year). In addition to the amendments proposed by the OPA, the Commission is proposing to make changes to the enrollment process to ensure that participants are not required to pay for more than one month of service when enrolled in AMP as well as other non-substantive changes to the rule.

PUBLIC HEARING: August 30, 2023, at 9:00 a.m. The Commission will hold a public hearing on the proposed rule on Wednesday, August 30, 2023, at 9:00 a.m. The hearing will be held in the Simpson Hearing Room at the offices of the Maine Public Utilities Commission, 26 Katherine Drive, Hallowell, Maine 04347. Interested persons wishing to participate in the hearing remotely may contact the Commission for more information.

COMMENT DEADLINE: September 15, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Daya Taylor, Maine Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-3831. Email: Daya.Taylor@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: Minimal

STATUTORY AUTHORITY FOR THIS RULE: 35-A MRS §§ 104, 111, 1714, 3214, 10110

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

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

MPUC RULEMAKING LIAISON: Deirdre.Schneider@Maine.gov.

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

CHAPTER NUMBERS AND TITLES:

**Ch. 20**, Special Provisions

**Ch. 31**, Certification and Licensing Provisions / Commercial Applicators

**Ch. 32**, Certification and Licensing Provisions for Private Applicators

**Ch. 41**, Special Restrictions on Pesticide Use

TYPE OF RULES:

Ch. 20, 31, 32: Routine Technical

Ch. 41: Major Substantive

PROPOSED RULE NUMBERS: **2023-P151, P152, P153, P154**

**BRIEF SUMMARY**: The proposed rulemaking includes amendments to 4 chapters. These amendments include establishing certain requirements for applicators to positively identify their treatment sites, combining the 7C categories to become one comprehensive topic, adopting federal standards by reference regarding non-certified applicators under the supervision of applicators, and modernizing the rules regarding standards for growers that use plant incorporated protectants. Some of these changes are required by the U.S. Environmental Protection Agency’s certification and training program changes while others are to modernize the Board’s rules to reflect current practices and create enforceable language for violations.

PUBLIC HEARING: Hybrid meeting on September 1, 2023 @ 9:00 a.m. in Deering Building, Room 101 (90 Blossom Lane, Augusta, ME 04333) and via Microsoft Teams

https://teams.microsoft.com/l/meetup-join/19%3ameeting\_YmZhYjdjNzAtZGMyNS00Y2Y1LThhODYtNTI2OTZkZmQxYjc3%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%226ed362cc-15d4-43ed-bc56-601a4d6d961a%22%7d

**DETAILED SUMMARY:**

**Chapter 20** – Two amendments are proposed.

1. Adopting current policy language into rule to make “Proper Identification of Treatment Sites” methods enforceable. Adding language from this policy under subsection 1-4 and creating a new subsection 5 that allows master applicators to submit their own methods for identifying treatment sites.

2. Adding a section B that outlines penalties if violations occur over a 5-year period.

**Chapter 31** – Two amendments are proposed.

1. Combining categories 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one category 7C Disinfectant and Biocide and retaining language from the other categories under this new category.

2. Combining competency standards for 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one competency standard 7C Disinfectant and Biocide and retaining language from the other competency standard categories to align with language from the category descriptions in Section 2.

**Chapter 32** – One amendment is proposed.

1. Adding requirements for certified applicators supervising noncertified applicators that align with federal standards outlined in 40 CFR 171.201 (2023). These standards are required by EPA for certification and training program updates.

**Chapter 41** – One amendment is proposed.

1. Amend grower requirements and product-specific requirements to broaden the scope from Bt corn to all plant incorporated protectants and delete or amend language regarding refuges that is not relevant to current plant incorporated protectant growing practices.

**COMMENT DEADLINE**: September 11, 2023 @ 5:00 p.m.

CONTACT PERSON FOR THIS FILING: Karla Boyd, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-2731. Email: Pesticides@Maine.gov or Karla.Boyd@Maine.gov.

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

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

STATUTORY AUTHORITY FOR THESE RULES:

Ch. 20 — 22 MRS Ch. 258-A

Ch. 31 — 22 MRS §§ 1471-D

Ch. 32 — 22 MRS §§ 1471-D(2-D) and M(1)(C-1)

Ch. 41 — 5 MRS §§ 8051 *et seq*.

Ch. 41 — 7 MRS §§ 601-610

Ch. 41 — 22 MRS §§ 1471-A-D and M

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

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

BOARD RULEMAKING LIAISON: Megan.L.Patterson@Maine.gov.

**ADOPTIONS**

AGENCY: **94-270 - Commission on Governmental Ethics and Election Practices**

CHAPTER NUMBERS AND TITLES:

**Ch. 2**, Hearing Procedures

**Ch. 3**, Maine Clean Election Act and Related Provisions

ADOPTED RULE NUMBERS: **2023-113, 114** *(Major substantive)*

CONCISE SUMMARY: The amendments will amend the Commission’s hearing rules to conform to the *Maine Administrative Procedure Act*. They would also formalize a policy that qualifying contributions will not be returned to *Maine Clean Election Act (MCEA)* candidates and prohibit MCEA candidates from spending public campaign funds on post-election parties (consistent with statute).

EFFECTIVE DATE: August 27, 2023

COMMISSION CONTACT PERSON: Julie Aube, Commission Assistant, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333-0135. Telephone: (207) 287-4179. Email: Julie.Aube@Maine.gov.

COMMISSION WEBSITE: <https://www.maine.gov/ethics/>.

COMMISSION RULEMAKING LIAISON: Jonathan.Wayne@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 609**, Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) Program Rule: SNAP E&T Rule #6, Name Change and Other Clarifications

ADOPTED RULE NUMBER: **2023-116**

CONCISE SUMMARY: The adopted rule updates the program name and references to the Supplemental Nutrition Assistance Program Employment and Training Program (SNAP E&T) from FSET to reflect recent updates for the SNAP program. The adopted rule is consistent with terminology used in federal law, state laws and regulation. Further, the adopted rule is consistent with Maine revised statutes pursuant to PL 2021 c. 398 Part OO.

The adopted rule clarifies federal requirements for case management and job retention services and other minor updates made to clarify wording. Each of these updates more closely aligns the rule with 7 CFR §273.3.

The adopted rule updates Section 8(I) Support Services Limits – Mileage Reimbursement to .46 cents per mile to align with the rate afforded to those covered under the Maine State Employee Association (MSEA) contract. This change is effective retroactive to March 1, 2023. Retroactive rulemaking is permissible under 22 MRS §42(8) as this update provides a benefit to SNAP E&T recipients or beneficiaries and does not adversely impact applicants, participants, beneficiaries, or providers.

The Department determined it necessary to make a non-substantial change to the adopted rule to align the rule with age and work requirements for Able-bodied Adult without Dependent (ABAWD) pursuant to the *Fiscal Responsibility Act 2023* (FRA 2023). To ensure consistency with 10-144 CMR Ch. 301, *Supplemental Nutrition Assistance Program (SNAP) Rules Manual*, and this rule, a non-substantial change was made to the definition of Able-bodied Adult without Dependent (ABAWD), Section 1(I). The adopted rule changes the ABAWD definition to “a recipient as defined in 10-144 CMR Ch. 301, *Supplemental Nutrition Assistance Program (SNAP) Rules Manual*, Section 111-7.”

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

EFFECTIVE DATE: August 6, 2023

AGENCY CONTACT PERSON: Patricia Dushuttle, Special Projects Manager – SNAP, Department of Health & Human Services - Office for Family Independence, 109 Capitol Street, Augusta, ME 04333. Telephone: (207) 624-6907. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Patricia.Dushuttle@Maine.gov.

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi/>.

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov.

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

DHHS RULEMAKING LIAISON: Emily.A.Cathcart@Maine.gov.

AGENCY: **01-672** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Land Use Planning Commission** **(LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 2**, Definitions

ADOPTED RULE NUMBER: **2023-117**

CONCISE SUMMARY: The adopted revisions include the modification of terminology, clerical edits, and clarifications.

EFFECTIVE DATE: August 6, 2023

LUPC CONTACT PERSON / RULEMAKING LIAISON: Stacie Beyer, Department of Agriculture, Conservation and Forestry - Maine Land Use Planning Commission, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Stacie.R.Beyer@Maine.gov.

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml>.

AGENCY: **01-672** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Land Use Planning Commission** **(LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 4**, Rules of Practice

ADOPTED RULE NUMBER: **2023-118**

CONCISE SUMMARY: The adopted revisions identify two specific types of applications as being ‘routine’ and therefore authorize staff to act on those applications. The two types of applications include, i) applications to amend wetland subdistrict boundaries based on site-specific wetland delineations, and ii) proposals to adopt new or amended Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps produced by the Federal Emergency Management Agency. All other revisions represent clerical edits.

EFFECTIVE DATE: August 6, 2023

LUPC CONTACT PERSON / RULEMAKING LIAISON: Stacie Beyer, Department of Agriculture, Conservation and Forestry - Maine Land Use Planning Commission, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Stacie.R.Beyer@Maine.gov.

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml>.

AGENCY: **01-672** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Land Use Planning Commission** **(LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Land Use Districts and Standards

ADOPTED RULE NUMBER: **2023-119**

CONCISE SUMMARY: The adopted revisions include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory language, the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, the addition of parking space requirements for non-residential development, clerical edits and clarifications, and the removal of Appendix E.

EFFECTIVE DATE: August 6, 2023

LUPC CONTACT PERSON / RULEMAKING LIAISON: Stacie Beyer, Department of Agriculture, Conservation and Forestry - Maine Land Use Planning Commission, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Stacie.R.Beyer@Maine.gov.

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml>.

AGENCY: **29-250** - Secretary of State (SOS), **Bureau of Motor Vehicles (BMV)**

CHAPTER NUMBER AND TITLE: **Ch. 16** *(New)*, Rules for the Collection of Driver’s License Reinstatement Fees

ADOPTED RULE NUMBER: **2023-120** *(New)*

CONCISE SUMMARY: These rules implement the provisions of 29-A MRS §§ 2472(7) and 2486, which require the Secretary of State to collect a reinstatement fee prior to the termination of a suspension or revocation and subsequent reinstatement of a driver’s license. These rules establish the definition of reinstatement and procedures for calculating and collecting reinstatement fees, in order to ensure consistency in agency practice and reduce administrative fiscal penalties.

Although the adopted rule will be filed on August, 2, 2023, the agency has determined that the rule will become effective on September 6, 2023, not five days after filing per the default provision in 5 MRS §8052(6). The agency finds that this additional time is necessary to allow for smooth implementation of the administrative changes that will be involved in changing the collection of reinstatement fees, including computer system modifications and staff training.

EFFECTIVE DATE: September 6, 2023

BMV CONTACT PERSON: Christopher Ireland, Bureau of Motor Vehicles, 101 Hospital Street – 29 State House Station, Augusta, ME 04333. Telephone: (207) 624-9124. Email: Christopher.Ireland@Maine.gov.

BMV WEBSITE: <https://www.maine.gov/sos/bmv/>.

BMV RULEMAKING LIAISON: Tina.B.Corkum@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 6**, Child Care Subsidy Program Rules

ADOPTED RULE NUMBER: **2023-121**

CONCISE SUMMARY: On February 13, 2023, the Department adopted 10-148 CMR Ch. 31, *Quality Rating and Improvement System (QRIS) Rules: Rising Stars for ME*. Rising Stars for ME changed Maine's QRIS from a 4 level to a 5-star rating system. The proposed amendments to 10-148 CMR Ch. 6, *Child Care Subsidy Program Rules* (CCSP Rules) in this rulemaking aligns the CCSP Rules' provisions regarding reduction in parent fees for children attending higher quality child care programs and increased reimbursement for providers with higher quality rating with Rising Stars for ME. Moreover, Rising Stars for ME changed Maine's prior QRIS by including CCSP License-Exempt Providers within its scope. The proposed rule amends the CCSP rules to reflect this change by requiring nonrelative License-Exempt Child Care Providers to enroll in, and maintain a minimal level under, Rising Stars for ME.

EFFECTIVE DATE: August 10, 2023

OCFS CONTACT PERSON: Crystal Arbour, Child Care Services Program Manager, DHHS - Office of Child and Family Services, 2 Anthony Avenue – 11 State House Station, Augusta, ME 04333. Telephone: (207) 626-8683. Email: Crystal.Arbour@Maine.gov.

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

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

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

ADOPTED RULE NUMBER: **2023-122** *(Final adoption, major substantive)*

CONCISE SUMMARY: This rule amends the MCILS fee schedule and administrative procedures for payment of Commission assigned counsel to set the hourly rate paid to attorneys providing indigent legal services at $150.00/hr. for fiscal year 2023, starting March 1, 2023.

EFFECTIVE DATE: September 1, 2023

AGENCY CONTACT PERSON: Jim Billings, Executive Director, Maine Commission on Indigent Legal Services, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Email: Jim.Billings@Maine.gov.

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

MCILS RULEMAKING LIAISON: Eleanor Maciag, Deputy Executive Director: Eleanor.Maciag@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 332**, MaineCare Eligibility Manual, **Parts 2, 3, 4, 5, Chart 7**: **Rule #301A**, Certain MAGI and CHIP Coverage Group Changes

ADOPTED RULE NUMBER: **2023-123**

CONCISE SUMMARY: The adopted rule provides continuing MaineCare coverage for parents, of children in the custody of the Office of Child and Family Services (OCFS), who are actively participating in family reunification. It also removes exclusions, lock-out periods, and premiums for Cub Care and increased the Federal Poverty Level (FPL) to 208% for all children. The adopted rule changes increase access to health insurance coverage.

The Department corrected a typo in Part 2, Section 3.2(III)(B)(2)(a) and (b) from February 25, 2027 to February 25, 1927. In addition, the adopted rule removed Part 2, Section 16 language regarding Cub Care ineligibility due to premium non-payment and references to a penalty for premium non-payment. Further, the adopted rule corrected a typo in Part 3, Section 3(I)(C).

The adopted rule updated Part 3, Section 2.2, to allow Parent/Caretaker Relatives to maintain MaineCare coverage while actively working towards reunification with the OCFS. Parents with Substance Use Disorder (SUD) whose children have been removed from the home will maintain necessary health coverage to continue SUD treatment, increasing success of reunification efforts, and thus the overall health and wellness of Maine families.

Part 5, Section 1, Definitions replaced “Federally Facilitated Marketplace” with State-Based Marketplace as Maine’s State-Based Marketplace is utilized. In addition, website addresses have been added for the State-Based Marketplace and MyMaineConnection. Part 5, Section 2, CubCare added clarifying language. Part 5, Section 3, Basic Eligibility Requirements removed exclusions for children residing in a public institution or an inpatient psychiatric facility. In addition, Part 5, removed Section 3(B), Children with a Three Month Waiting Period, Section 8, Changes in Household, and Section 12, Premiums. Part 5, Section 6, Income Standard (A-C) increased the Federal Poverty Level to 208% of the FPL. Part 5, Section 9, Eligibility Periods added clarification regarding retroactive coverage and renewal notice time frames. Part 5, Section 10, Notices(D) added clarification regarding case closings. Further, Part 5, Section 10, Administrative Hearings directs readers to Part 1, Section 7 for rules regarding hearings.

Chart 7, Cub Care, is removed to align with the proposed rule changes to Cub Care.

The following adopted rule changes shall be retroactive. Part 3, Section 3(III) aligns with federal requirements for coverage of Former Foster Care Children effective retroactive to January 1, 2023. Part 4, Section 4(D and E) updated the FPL limit for children under age 19 effective retroactive to March 1, 2023. Part 5, Section 3 removed exclusions and wait periods for Cub Care eligibility, and Part 5 is further amended to remove premium payments for Cub Care effective retroactive to March 1, 2023. Removing exclusions, wait periods, and premiums for Cub Care eases financial burdens for programs and beneficiaries. Retroactive rulemaking is permissible under 22 MRS §42(8) as these changes afford this benefit to more residents of the State of Maine and does not adversely impact applicants, participants, beneficiaries, or providers.

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

EFFECTIVE DATE: August 15, 2023

AGENCY CONTACT PERSON: Lea Studholme, Senior Program Manager – MaineCare, Office for Family Independence, Department of Health & Human Services, 109 Capitol Street – 11 State House Station, Augusta, ME 04333. Telephone: (207) 624-4106. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Lea.Studholme@Maine.gov.

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi/>.

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov.

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