**State of Maine: Notice of Agency Rulemaking – September 1, 2021**

**PROPOSALS**

AGENCY: **12-170** – Department of Labor (DOL), **Bureau of Labor Standards (BLS)**

CHAPTER NUMBER AND TITLE: **Ch. 19**, Rules Governing Apprenticeship in Construction of Energy Generation Facilities

PROPOSED RULE NUMBER: **2021-P125** *(Extension of Deadline)*

BRIEF SUMMARY: The purpose of this chapter is to provide definitions and procedures for implementing apprenticeship standards in the construction of certain energy generation facilities pursuant to 26 MRS ch. 43 §3501 and §3502. These rules apply to construction employers who are engaged in the construction of a generation facility.

PUBLIC HEARING: None, unless requested pursuant to 5 MRS §8052(1).

COMMENT DEADLINE *(extended)*: September 13, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DOL RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Telephone: (207) 626-6232. Email: [Isaac.H.Gingras@Maine.gov](mailto:Isaac.H.Gingras@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §3502

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

DOL WEBSITE: <http://www.maine.gov/labor> .

AGENCY: **01-015** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Milk Commission (MMC)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices, **Order #10-21**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P144**

BRIEF SUMMARY: The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954

PUBLIC HEARING: September 23, 2021, Thursday, starting at 10:30 a.m. - Room 106, Department of Agriculture, Conservation & Forestry, Deering Building, Hospital Street, Augusta, Maine

COMMENT DEADLINE: September 23, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MMC RULEMAKING LIAISON: Tim Drake, Maine Milk Commission, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: [Tim.Drake@Maine.gov](mailto:Tim.Drake@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §8054; 7 MRS §2954

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

MMC WEBSITE: <http://www.maine.gov/dacf/milkcommission/index.shtml> .

DACF RULEMAKING LIAISON: [Shannon.Ayotte@Maine.gov](mailto:Shannon.Ayotte@Maine.gov) .

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

CHAPTER NUMBER AND TITLE: **Ch. 701**, Rules Governing Animal Welfare

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P145**

**BRIEF SUMMARY**: The revisions proposed to these rules will improve accountability for animal facilities importing animals for sale or adoption and also improve standards of care at all animal facilities. All other revisions represent typical rule maintenance.

**DETAILED SUMMARY**: **Section 1 changes**. Over the past several years,there have been many changes to the way people acquire pets and the level of care needed to maintain healthy animals. These proposed changes are the result of investigations of complaints to the department and the result of inspections of licensed facilities. These changes also remove the redundant civil violations that already exist in current law. **Section VI changes.** These proposed changes improve and clarify the requirements for horse shelter and care of horses that are in poor health to ensure that they will receive proper care.

PUBLIC HEARING: N/A. Comment period only.

COMMENT DEADLINE: October 1, 2021 - 5 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Liam Hughes, Animal Welfare Director, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-3846. Email: [Liam.Hughes@Maine.gov](mailto:Liam.Hughes@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS §3906-B

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

DAFS RULEMAKING LIAISON: [Shannon.Ayotte@Maine.gov](mailto:Shannon.Ayotte@Maine.gov) .

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

CHAPTER NUMBER AND TITLE: **Ch. 313**, Customer Net Energy Billing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P146**

BRIEF SUMMARY: The Public Utilities Commission initiates a rulemaking proceeding to amend its Net Energy Billing (NEB) rule (Chapter 313) as required to implement recently enacted legislation

PUBLIC HEARING: September 22, 2021 at 1:00 p.m. *The Public Utilities Commission will conduct the hearing remotely via Microsoft Teams. Interested persons wishing to participate in the hearing by telephone may dial (207)-209-4724 and enter Conference ID 565 819 892#. Interested persons wishing to participate in the hearing using video may contact the Hearing Officer by email at* [*Mitchell.Tannenbaum@Maine.gov*](mailto:Mitchell.Tannenbaum@Maine.gov) *for a link.*

COMMENT DEADLINE: October 4, 2021. Written comments on the proposed rule may be filed until close of business on Monday, October 4, 2021. However, the Commission requests that initial comments be filed by close of business on Friday, September 17, 2021 to allow for follow up inquires during the hearing. Supplemental comments may be filed after the hearing. Written comments should refer to the docket number of this proceeding, Docket No. 2021-00253, and be filed using the Commission’s case management system (CMS) which is accessible from the Commission’s website

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Mitch Tannenbaum, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1391. Email: [Mitchell.Tannenbaum@Maine.gov](mailto:Mitchell.Tannenbaum@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 35-A MRS §§ 104, 111, 1301, 3209-A, 3209-B

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

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

MPUC RULEMAKING LIAISON: [Jamie.A.Waterbury@Maine.gov](mailto:Jamie.A.Waterbury@Maine.gov) .

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2021-P147**

TYPE OF RULE: Routine Technical

CHAPTER NUMBER AND TITLE: **Ch. 241**, Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets

BRIEF SUMMARY: The proposed changes update links to several source code resources, clarifies the description of valid codes for race and ethnicity data elements, and modifies descriptions for several other data elements to more accurately reflect the requirement.

Copies of these proposed rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

PUBLIC HEARING: September 23, 2021, at 9:00 a.m. (In-Person)\*\*, Augusta Armory, 179 Western Avenue, Conference Room #209B, Augusta, ME 04330

*\*\*Please Note:* To attend virtually, call 1 (877) 455-0244, Code 7281882859

COMMENT DEADLINE: October 4, 2021 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MHDO RULEMAKING LIAISON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6724. Fax: (207) 287-6732. Email: [Debra.J.Dodge@Maine.gov](mailto:Debra.J.Dodge@Maine.gov) .

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS ch. 1683 §8704 sub-§4, §8708

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

MHDO WEBSITE: <https://mhdo.maine.gov/> .

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2021-P148**

TYPE OF RULE: Routine Technical

CHAPTER NUMBER AND TITLE: **Ch. 243**, Uniform Reporting System for Health Care Claims Data Sets

BRIEF SUMMARY: This proposed rule adds new fields for payment arrangement type, removes obsoleted data elements and clarifies the requirements for others.

Copies of these proposed rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

PUBLIC HEARING: September 23, 2021, at 9:00 a.m. (In-Person)\*\*, Augusta Armory, 179 Western Avenue - Conference Room #209B, Augusta, ME 04330

*\*\*Please Note:* To attend virtually, call 1 (877) 455-0244, Code 7281882859

COMMENT DEADLINE: October 4, 2021 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MHDO RULEMAKING LIAISON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6724. Fax: (207) 287-6732. Email: [Debra.J.Dodge@Maine.gov](mailto:Debra.J.Dodge@Maine.gov) .

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 8703(1), 8704(4), 8708(6-A), 8712(2)

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

MHDO WEBSITE: <https://mhdo.maine.gov/> .

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2021-P149**

TYPE OF RULE: Routine Technical

CHAPTER NUMBER AND TITLE: **Ch. 247**, Uniform Reporting System for Non-Claimes Based Primary Care Payments

BRIEF SUMMARY: MHDO is required by statute to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens and to issue reports and or support the development of reports as mandated. The reason for proposing this new rule is so that MHDO’s data for Primary Care payments is accurate and comprehensive in that it reflects both payments made under the traditional fee for service model (governed under ch. 243) and alternative payment models, which are non-claims based payments (governed under this proposed rule). PL 2019 ch. 244 requires the Maine Quality Forum to develop an annual report to submit to the legislature on primary care spending in the state of Maine, using data from the Maine Health Data Organization. Currently, MHDO’s data set does not reflect the total investment that payors (both private and public) are making in primary care and therefore understates the level of spending in the state of Maine.

This proposed rule provides the structure for the submission of data for non-claims based primary care payments. This will allow for accurate reporting and better inform future policy decisions specific to investments in primary care.

Copies of these proposed rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

PUBLIC HEARING: September 23, 2021, at 9:00 a.m. (In-Person)\*\*, Augusta Armory, 179 Western Avenue - Conference Room #209B, Augusta, ME 04330

*\*\*Please Note:* To attend virtually, call 1 (877) 455-0244, Code 7281882859

COMMENT DEADLINE: October 4, 2021 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MHDO RULEMAKING LIAISON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6724. Fax: (207) 287-6732. Email: [Debra.J.Dodge@Maine.gov](mailto:Debra.J.Dodge@Maine.gov) .

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 8703(1), 8704(1)&(4)

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

MHDO WEBSITE: <https://mhdo.maine.gov/> .

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 8**, Landings Program: **8.20**, Harvester Reporting: **T.**, Mussel Harvest

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P150**

BRIEF SUMMARY: This proposed rule would establish mandatory monthly trip-level harvester reporting for individuals who hold a mussel boat license or a hand-raking mussel license. Required reporting elements are specified in the proposed rule.

PUBLIC HEARING: September 21, 2021, 4 p.m., DMR’s Augusta Office (Marquardt Building), 32 Blossom Lane - Room 118. *Masks are required for those who are not fully vaccinated. A remote option via Microsoft Teams will also be available. For information on how to join the hearing remotely, please visit:* [*www.maine.gov/dmr*](http://www.maine.gov/dmr)*. Instructions will be posted on DMR’s homepage under meetings and events.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: October 1, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6173

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

DMR RULEMAKING WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

DMR WEBSITE: <https://www.maine.gov/dmr/index.html> .

DMR RULEMAKING LIAISON: [Deirdre.Gilbert@Maine.gov](mailto:Deirdre.Gilbert@Maine.gov) .

**ADOPTIONS**

AGENCY: **01-015** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Milk Commission (MMC)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices, **Order #09-21**

THPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2021-171** *(Emergency)*

CONCISE SUMMARY: Minimum September 2021 Class I price is $19.84/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt. as being prevailing in Southern New England and $1.40/cwt. handling fee for a total of $24.11/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: August 29, 2021

MMC CONTACT PERSON: Tim Drake, Maine Milk Commission - Agriculture, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: [Tim.Drake@Maine.gov](mailto:Tim.Drake@Maine.gov) .

MMC WEBSITE: <https://www.maine.gov/dacf/milkcommission/index.shtml> .

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

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

ADOPTED RULE NUMBER: **2021-172**

CONCISE 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 rule reflects the change to the law.

EFFECTIVE DATE: August 29, 2021

DACF CONTACT PERSON / RULEMAKING LIAISON: Shannon Ayotte, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-5976. Email: [Shannon.Ayotte@Maine.gov](mailto:Shannon.Ayotte@Maine.gov) .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 252**, Rules Governing Seed Certification in the State of Maine

ADOPTED RULE NUMBER: **2021-173**

CONCISE SUMMARY: This chapter outlines the procedures and standards governing the certification of seed potatoes in the State of Maine. The changes will include eliminating the mandatory post-harvest testing requirement for out of state exports of seed potatoes. An additional change will also be limiting growers challenging the post-harvest testing result re-test with an upper limit of 9%.

EFFECTIVE DATE: August 29, 2021

DACF CONTACT PERSON / RULEMAKING LIAISON: Shannon Ayotte, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-5976. Email: [Shannon.Ayotte@Maine.gov](mailto:Shannon.Ayotte@Maine.gov) .

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

AGENCY: **16-163** – Department of Public Safety (DPS), **Maine Emergency Medical Services (Maine EMS)**

CHAPTER NUMBER AND TITLE: **Ch. 20** *(New)*, COVID-19 Immunization Requirements

ADOPTED RULE NUMBER: **2021-174** *(Emergency)*

CONCISE SUMMARY: The Maine Department of Health and Human Services Maine (the “Department”) declared a public health emergency, effective as of July 1, 2021. After that declaration, on August 12, 2021, the Department adopted an emergency rule that requires certain entities, including EMS services, to require its employees to be immunized against COVID 19.

The Board finds, based on the findings of the Department, that requiring certain EMS providers to be vaccinated against COVID 19 is necessary to protect the health and safety of its patients, as well as to provide force protection of its providers in order to maintain an effective emergency medical services system during this public health emergency.

EFFECTIVE DATE: August 25, 2021

MAINE EMS CONTACT PERSON: Sam Hurley, Maine EMS, Maine Emergency Medical Services, 152 State House Station, Augusta, ME 04333-0152. Telephone: (207) 626-3865. Email: [J.Sam.Hurley@Maine.gov](mailto:J.Sam.Hurley@Maine.gov) .

MAINE EMS WEBSITE: <https://www.maine.gov/ems/> .

MAINE EMS RULEMAKING LIAISON: [Jason.A.Oko@Maine.gov](mailto:Jason.A.Oko@Maine.gov) .

AGENCY**: 02-502** - Department of Professional and Occupational Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Complementary Health Care Providers**

CHAPTER NUMBER AND TITLE: **Ch. 6-C** *(New)*, Standards for Vaginal Birth After Cesarean Section (VBAC)

ADOPTED RULE NUMBER: **2021-175**

CONCISE SUMMARY: During its public hearing December 16, 2020, to adopt rules to implement the licensing and practice requirements for professional midwives and certified professional midwives, the Board received an overwhelming number of comments on the matter of limitations on scope of practice for certified professional midwives, specifically as it relates to home births where the likelihood of a vaginal birth after a cesarean section (VBAC) condition exists, as described in 32 MRS §12536 section 1. The rule proposed at that time did not address midwives performing home births where there is a condition of vaginal birth after a cesarean section (VBAC) because it did not have the statutory authority to unilaterally adopt rules on the limitations on scope of practice prior to January 2021. The purpose of this rule proposal is to address the limitations on scope of practice and to set standards for vaginal birth after cesarean section (VBAC).

EFFECTIVE DATE: September 4, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Geraldine L. Betts, Administrator, Maine Department of Professional and Financial Regulation - Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8625. Email: [Geraldine.L.Betts@Maine.gov](mailto:Geraldine.L.Betts@Maine.gov) .

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-of-complementary-health-care-providers> .