**State of Maine: Notice of Agency Rulemaking – September 27, 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: **10-144**  - Department of Health and Human Services, **Maine Center for Disease Control and Prevention**

CHAPTER NUMBER AND TITLE: **Ch 242,** Rules for Conversion of Seasonal Dwelling Units into Year-Round Residences in the Shoreland Zone (Repeal)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P205**

BRIEF SUMMARY: The Department is proposing the repeal of this rule at the same time that it is adopting amendments to Maine’s Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241 (Ch. 241). The Department has clarified the requirements and updated language within Section 8(B)(1) of Ch. 241, in order to repeal Ch. 242 and to clarify that seasonal conversion permits may only be issued when the structure served by a subsurface wastewater disposal system meets the criteria of first-time systems as described in Section 8, First Time Systems, of Ch. 241. This new language in the newly amended Ch. 241 now make the requirements in Ch. 242 no longer applicable, therefore necessitating a repeal of the rule. The Department originally proposed the repeal of Ch. 242 concurrently with the proposing of amendments to Ch. 241. In the rulemaking for Ch. 241, the Department considered it necessary to engage in a second round of Public Comments for Ch. 241. As a result, the rulemaking for Ch. 242 lapsed as the Department did not want to repeal the requirements for Ch. 242 until these requirements were formally merged into an adopted amendment of Ch. 241.

DATE, TIME AND PLACE OF PUBLIC HEARING: 30-day comment period, public hearing not scheduled.

COMMENT DEADLINE: October 27, 2023, 5:00 PM.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS CONTACT INFORMATION: Andrew Hardy, 286 Water Street, 11 State House Station, Augusta, ME 04333-0011; PHONE: (207) 287-4490, Fax: (207) 287-2887, TTY: Call 711 (Maine Relay), Email: Andrew.Hardy@Maine.Gov

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS § 42(1) and (3-A); 22-A MRS §205(2); 30-A MRS §§4212 and 4215(2) and (5)

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

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Tera.Pare@Maine.gov

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

CHAPTER NUMBER AND TITLE: **Ch. 301,** Supplemental Nutrition Assistance Program (SNAP) Manual; **Section 999-2; SNAP Rule #230P** – ABAWD Geographic Exemptions

PROPOSED RULE NUMBER: **2023-P206**

BRIEF SUMMARY:Federal Supplemental Nutrition Assistance Program (SNAP) regulations provide that certain able-bodied adults without dependents (ABAWDs) are subject to a maximum of three months of benefits over a 36-month period, unless they work 20 hours or more per week (averaged monthly) or participate in and comply with requirements of a work program. Individuals who reside in certain geographic areas can qualify for an exception to this time limit under 7 C.F.R. § 273.24(f).

 The Department has submitted a request to the U.S.D.A. – Food and Nutrition Services (FNS) to waive these work requirements for certain ABAWDs residing in geographic areas that have unemployment rates at or above 10% or have insufficient jobs for recipients residing in those areas. The geographic areas include 260 qualifying cities, towns, unorganized territories, townships, and reservations that qualify individually or as part of a federally defined labor market area. Pending U.S.D.A. – FNS approval and the adoption of this rule, ABAWDs residing in those areas will no longer have to meet the work requirements to receive SNAP effective retroactive to October 1, 2023. Retroactive rulemaking is permissible under 22 M.R.S. § 42(8) as this update provides a benefit to nearly 2,000 SNAP recipients who meet the ABAWD definition and does not adversely impact applicants, participants, beneficiaries, or providers.

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

PUBLIC HEARING:No public hearing is scheduled.

COMMENT DEADLINE:Monday, October 30, 2023, at 5:00 p.m. EST. Written public comments may be submitted via the link at <https://www.maine.gov/dhhs/about/rulemaking>

CONTACT PERSON FOR THIS FILING:Patricia Dushuttle, Special Projects Program Manager – SNAP, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street, Augusta, ME 04330-6841; Phone: (207) 624-6907/Fax: (207) 287-3455; TT Users Call Maine Relay – 711; Email: Patricia.Dushuttle@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:None anticipated.

STATUTORY AUTHORITY FOR THIS RULE**:** 22 M.R.S. § 42(1); 7 C.F.R. §273.24(f)

AGENCY WEBSITE: [https://www.maine.gov/dhhs/ofi](https://www.maine.gov/dhhs/ofi/arules)

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: **06-096** - **Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Ch. 167,** Tracking and Reporting Gross and Net Annual Greenhouse Gas Emissions

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P207**

BRIEF SUMMARY: This update to Chapter 167 revises the methods for the calculation of gross and net annual greenhouse gas emissions in the State for the purpose of assessing attainment of the reduction requirements set out at 38 MRS §§576-A(1), (2) and (3).

PUBLIC HEARING: No public hearing is scheduled. There is a 30-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.

COMMENT DEADLINE: October 30, 2023

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS CONTACT INFORMATION: Stacy Knapp, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333; PHONE: (207) 287-2235; EMAIL: Stacy.R.Knapp@maine.gov

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

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS 576-A(4)

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mark.T.Margerum@maine.gov

AGENCY: **15-214 -** Maine Department of Defense, Veterans and Emergency Management, **Maine Emergency Management Agency**

CHAPTER NUMBER AND TITLE: **Ch. 2,** Rules for establishing fees for reporting under the Superfund amendments and Reauthorization Act of 1986 and Title 37-B Sec. 801, M.R.S. Chapter 13

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P208**

BRIEF SUMMARY: This would increase the registration fee paid by facility owners and operators of hazardous materials in the State of Maine as reported to the State Emergency Response Commission (SERC) pursuant to the Superfund Amendments and Reauthorization Act of 1986 and 37-B Sec. 801 M.R.S., Chapter 13. This rule would authorize the Director of Maine Emergency Management Agency, with the advice of the State Emergency Response Commission, to change the current fee amount and fee schedule. The registration fee set by the Commission has not been changed since it was implemented in 2002; the inventory fee was changed by rulemaking in 2021. Due to cost of inflation, the Commission struggles to maintain an adequate level of funding for County Emergency Management Agencies, State-funded Hazardous Materials Response Teams and local trainings for first responders. This increase in the current fee schedule would allow the State Emergency Response Commission to fund local first responder trainings, equipment, planning activities and outreach in order to help facilities prepare for and respond to hazardous material incidents. Without the increased fee, the Commission may have to cut back on funding these critical hazardous materials response teams and first responders, potentially reducing the State’s ability to prepare for and respond to hazardous materials incidents.

PUBLIC HEARING: Tuesday, October 17, 2023, at 1:00 pm at Maine Emergency Management Agency’s classroom, 45 Commerce Drive, Augusta, Maine 04333

COMMENT DEADLINE: October 27, 2023

CONTACT PERSON FOR THIS FILING: Faith Staples, Maine Emergency Management Agency, 72 State House Station, Augusta, Maine 043330-0021, Email:maine.serc@maine.gov; Telephone:(207) 624-4400 or (207) 557-3675; Fax:(207) 287-3178; TTY:(711) Maine Relay

Website: <https://www.maine.gov/mema/maine-prepares/plans-trainings-exercises/serc/rulemaking>

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: Vanessa Corson: Vanessa.Corson@maine.gov, (207) 592-6201

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: The proposed change in the rule will increase the facilities’ cost each year dependent upon how many facilities they own. Each reporting facility currently pays a registration fee for each facility they own. With this proposed rate increase, MEMA and the Commission would increase the registration fee associated with all hazardous and extremely hazardous chemical facilities. The registration fee has not been changed since it was implemented in 2002 and has not kept up with inflation and the rise of administrative the cost of the program.

STATUTORY AUTHORITY FOR THIS RULE: 37-B M.R.S. § 801(2)(A)(1989), *amended by* P.L. 2023, ch. 62, § 8 (effective Oct. 25, 2023)

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

AGENCY WEBSITE: <https://www.maine.gov/mema/maine-prepares/plans-trainings-exercises/serc/rulemaking>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Vanessa.Corson@maine.gov

**ADOPTIONS**

AGENCY: **18-553 -** Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, **Maine State Liquor and Lottery Commission**

CHAPTER NUMBER AND TITLE: Ch. 10, Lottery Rules

ADOPTED RULE NUMBER: **2023-173**

CONCISE SUMMARY: This amendment updates the existing rules governing the rules of the Maine Lottery. This amendment makes necessary changes to allow terminal generated vouchers to be handled consistent with other game tickets and expire one year from the date of issue. This amendment also updates and clarifies definitions that have changed with advances in technology, gives the director the authority to temporarily suspend a licensee until such time a hearing can be held and adds a new license type. In addition, the rules for technical changes to clarify language, and fix typographical errors.

EFFECTIVE DATE: September 24, 2023

AGENCY CONTACT PERSON/RULEMAKING LIAISON: Michael Boardman, Deputy Director Lottery, Bureau of Alcoholic Beverages and Lottery Operations, 8 State House Station, Augusta, ME 04333-0008, Telephone: 207-287-4614; Fax:207-287-6769; e-mail:Michael.Boardman@maine.gov

WEBSITE: <https://www.maine.gov/dafs/bablo/>

AGENCY: **65-407 - Maine Public Utilities Commission**

CHAPTER NUMBER AND TITLE: **Ch. 880,** Attachments to Joint-Use Utility Poles; Determination and Allocation Of Costs; Procedure

ADOPTED RULE NUMBER: **2023-174**

CONCISE SUMMARY: The Public Utilities Commission amends Chapter 880 to require participation by pole attachers in any pole management database implemented by large owners of joint use utility poles. In addition, the Commission amends Chapter 880 to implement the provisions of a waiver ordered by the Commission that corrected an error in the portion of Chapter 880, § 2(A)(14)(a) that prescribes the order in which attaching entities must move attachments from a replaced joint use utility pole to a new pole.

EFFECTIVE DATE: September 25, 2023

AGENCY CONTACT PERSON: Pam Kowalchuk, MPUC, 18 State House Station, Augusta, ME 04333-0018; TELEPHONE: 207-287-1564; Email: Pamela.Kowalchuk@maine.gov

MPUC WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc)
MPUC RULEMAKING LIAISON: Deirdre.Schneider@Maine.gov

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

CHAPTER NUMBER AND TITLE: **Ch. 1,** Administration; **Ch. 3,** Officials and Racetrack Personnel.

ADOPTED RULE NUMBER: **2023-175, 176**

CONCISE SUMMARY:

**Chapter 1**

* Definitions, Sec. 1. Adding and modifying definitions for Commission Veterinarian, Licensed Agricultural Fair, Trainer of Record, and Racing Officials.
* Rules of Construction, Sec. 2. Adding Situations not addressed by a Rule, which proposes that the Commission will reference the USTA rule book when MHRC rules do not address any situation.
* State Steward, Sec 4. Provides that the State Steward shall act as the Presiding Judge at all licensed associations that request the State provide a Presiding Judge.
* Sulky Approval, Sec 9. Changing this section to the current USTA Sulky requirements.
* Judge Licensing Requirements, Sec. 10. Gives requirements for Associate Judge and Presiding Judge licensure and requires continuing education to stay current with that license.
* General Provisions, Sec. 13. Changes registration certificate to electronic eligibility.
* Eligibility To Race in Maine, Sec. 14. Allows horses 15 Years old eligible to race under certain conditions.
* Licensing a Commission Veterinarian, Sec 17. Requires all veterinarians to hold a valid MSHRC license to be considered a Commission Veterinarian and under the umbrella of the Commission.
* Postmortem Examination, Sec. 20. Gives the power to the Commission Veterinarian and the State Steward to decide whether a horse that has expired at a race track needs a postmortem examination.

**Chapter 3**

* Officials employed by associations, Sec 2. Removes Patrol Judge and adds Starter/Patrol Judge for this is one person. Presiding Judge is removed from this list as the State Steward will act as the Presiding Judge at race meets.
* Official’s restrictions, Sec 4. Changes restrictions on officials to a specific race, and not an entire race day when there is a conflict of interest.
* Judge’s Duties, Sec. 5. Adds Commission Veterinarian, Race Secretary, and Starter/Patrol Judge to the list of positions under the supervision of the Presiding Judge. It also eliminates 10 day Gate security and Patrol Judge.

Language has been added for an Associate Judge to act as the Presiding Judge if for any reason the Presiding Judge is unable to perform his duties.

* Track Conditions, Sec. 5. Allows a participant who wishes not to race on a questionable surface to be excused by the Presiding Judge.
* Presiding Judge and Associate Judges. Sec. 5. Changes the language for a No Contest to focus more on safety and extraordinary circumstances.
* Duties of the Race Secretary, Sec. 6. Makes the Race Secretary accountable to the Presiding Judge for his performance.
* Starter/Patrol Judge, Sec. 8. Changes Starting Judge to Starter/Patrol Judge and also adds the responsibilities of the Patrol Judge to this section.
* Horse Identifier, Sec. 10. Adds language requiring the person to read a microchip to identify a horse and also requires identifying horses prior to entering the track for the post parade.
* Gate Security, Sec. 17. Adds language that requires persons seeking admission to the paddock present a valid license when necessary.

The proposed changes above will promote and ensure the efficiency and integrity of racing meets.

The proposed changes will be beneficial to the Harness Racing Industry by means of referring to the United States Trotting Association rules when appropriate and changing language in the MSHRC rules to make the existing rules more definite for both the participants and the officials. The changes are to keep current with the more modern technology that is available such as microchipping and freeze branding. The proposed rules also give definition to official’s positions and added responsibilities.

EFFECTIVE DATE: September 25, 2023

AGENCY CONTACT PERSON/RULEMAKING LIAISON: Shane Bacon, Maine State Harness Racing Commission, 28 State House Station, Augusta, ME 04333-0028; Telephone: 207-287-7568; Email: Shane.Bacon@Maine.gov.
AGENCY WEBSITE: <https://www.maine.gov/daf/harnessracing/index.shtml>.

AGENCY: **18-125,** Department of Administrative & Financial Services, **Maine Revenue Services**

CHAPTER NUMBER AND TITLE: **Ch. 325,** Sales to Tribes, Tribal Members, and Tribal Entities

ADOPTED RULE NUMBER: **2023-177**

CONCISE SUMMARY:This new rule provides definitions, explanations, and examples of taxable and non-taxable transactions related to sales to Maine Indian tribes, tribal members, and tribal entities, including sales sourced to tribal lands. The rule also addresses other potential sales and use tax issues related to such parties, including: requirements for qualifying as a “tribal entity”; sourcing complexities related to transactions and the use of property located within both tribal and non-tribal land; specific requirements for the sale of vehicles and leases of automobiles for periods of one year or more; and the treatment and reporting of sales to non-tribal members on tribal land.

EFFECTIVE DATE: September 30, 2023

AGENCY CONTACT PERSON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta ME 04333-0024; Telephone: (207) 624-9712 ; Email: Alexander.J.Weber@maine.gov

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov

AGENCY: **18-125,** Department of Administrative & Financial Services, **Maine Revenue Services**

CHAPTER NUMBER AND TITLE: Ch. 803, Income Tax Withholding Reports and Payments

ADOPTED RULE NUMBER: **2023-178**

**CONCISE SUMMARY:** Maine Revenue Services is proposing to amend Rule 803 ("Income Tax Withholding Reports and Payments") to reflect recently enacted legislation that provides for an income tax withholding exemption for enrolled tribal members residing on tribal land in Maine with income derived from or connected with sources on tribal land in Maine, an income tax withholding exemption for out-of-state supplier of spirits sold to the Bureau of Alcoholic Beverages and Lottery Operations (BABLO), and to make other technical updates.

EFFECTIVE DATE: September 30, 2023

AGENCY CONTACT PERSON:Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta ME 04333-0024; Telephone: (207) 624-9712 ; Email: Alexander.J.Weber@maine.gov

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov

AGENCY: **18-125,** Department of Administrative & Financial Services, **Maine Revenue Services**

CHAPTER NUMBER AND TITLE: **Ch. 825,** Tribal Member Income from Sources on Tribal Land

ADOPTED RULE NUMBER: **2023-179**

CONCISE SUMMARY:Maine Revenue Services is proposing to adopt Rule 825 ("Tribal Member Income from Sources on Tribal Land") to reflect recently enacted legislation that provides for income modifications for enrolled tribal members residing on tribal land in Maine with income derived from or connected with sources on tribal land in Maine.

EFFECTIVE DATE: September 30, 2023

AGENCY CONTACT PERSON:Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta ME 04333-0024; Telephone: (207) 624-9712 ; Email: Alexander.J.Weber@maine.gov

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov

AGENCY: **01-015**  – Department of Agriculture, Conservation and Forestry, **Maine Milk Commission**
CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices, **Order #10-23**
ADOPTED RULE NUMBER: **2023-180**
CONCISE SUMMARY: Minimum October 2023 Class I price is $22.72/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 $26.06/cwt. that includes a $0.20/cwt Federal promotion fee.

EFFECTIVE DATE: **October 1, 2023**AGENCY CONTACT PERSON/ RULEMAKING LIAISON: Julie-Marie Bickford, Maine Milk Commission, 28 State House Station, Augusta ME 03333. Telephone: (207) 287-7521. Email Julie-Marie.Bickford@Maine.gov.
MMC RULES WEBSITE: <https://www.maine.gov/dacf/milkcommission/statutes_rules.shtml>.
COMMISSION WEBSITE: <https://www.maine.gov/dacf/milkcommission/index.shtml>.

AGENCY: **19-100 -** Department of Economic and Community Development

CHAPTER NUMBER AND TITLE: **Ch. 5,** Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule

ADOPTED RULE NUMBER: **2023-181**

CONCISE SUMMARY:The Department amended 19-100 C.M.R. Chapter 5 because of recent legislation: P.L. 2023, ch. 192 and P.L. 2023, ch. 264. Generally, this rule sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential use; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where residential uses are permitted.  The new implementation dates are January 1, 2024, for municipalities that enact ordinances without approval of voters of the municipality and July 1, 2024, for all other municipalities.

EFFECTIVE DATE: October 1, 2023

AGENCY CONTACT PERSON:Benjamin Averill, Department of Economic and Community Development, 111 Sewall Street, 3rd Floor, 59 State House Station, Augusta, ME 04330; Telephone: (207) 441-9831; Email:housing.decd@maine.gov

DECD WEBSITE: [www.maine.gov/decd](http://www.maine.gov/decd)
DECD RULEMAKING LIAISON: Denise.Garland@Maine.gov