**State of Maine: Notice of Agency Rulemaking – November 2, 2022**

**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: **01-669** - Department of Agriculture, Conservation and Forestry (DACF), **Bureau of Forestry (Maine Forest Service) - Division of Forest Health and Monitoring**

CHAPTER NUMBER AND TITLE: **Ch. 35** *(New)*, Browntail Moth Mitigation Fund

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P200**

**BRIEF SUMMARY**: This rule would establish standards for the administration of the Browntail Moth Mitigation Fund by the Bureau of Forestry. The Fund was created to provide funding to government entities or nonprofit organizations to support the mitigation of browntail moth in areas of Maine with significant populations. The draft rule includes details the types of organizations that can apply for funds, the application process, the types of activities that could be funded and how funds will be disbursed. More information is available at [www.maine.gov/dacf/knockoutbtm](http://www.maine.gov/dacf/knockoutbtm).

**DETAILED SUMMARY**: This rule would establish standards for the administration of the Browntail Moth Mitigation Fund by the Bureau of Forestry. The Fund was created to provide funding to government entities or nonprofit organizations to support the mitigation of browntail moth in areas of Maine with significant populations. The draft rule includes details the types of organizations that can apply for funds, the application process, the types of activities that could be funded and how funds will be disbursed. More information is available at [www.maine.gov/dacf/knockoutbtm](http://www.maine.gov/dacf/knockoutbtm).

Government entities and Nonprofit Organizations engaged in or wishing to engage in activities to reduce the impacts from Browntail Moth in areas of Maine with significant Browntail Moth populations are eligible to apply for mitigation funds.

The Division will identify areas with significant populations of Browntail Moth through surveys conducted the previous winter and summer. A listing of eligible areas will be posted on the Division website by December of each year. Upon request by an applicant, the Division, in its sole discretion, may decide to add additional areas to the Division's list of eligible areas.

Eligible activities are those activities that may help reduce the impacts of browntail moth including, but not limited to, activities that support or implement:

**1.** Physical controls such as removal and destruction of overwintering webs,

**2.** Pesticide treatments,

**3.** Cultural controls such as taking actions to limit exposure, reduce habitat or attraction, and

**4.** Education.

A grant review committee including at minimum an integrated pest management expert, a resource administrator, and a forest entomologist will review applications based on criteria outlined in the Division request for applications and will award full, partial, or no funding for each submitted proposal.

**PUBLIC HEARING**: November 22, 2022 - 9:30 a.m., 87 Airport Road, Old Town, ME

COMMENT DEADLINE: 4:30 p.m., December 2, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT IFORMATION: Allison Kanoti, Maine Forest Service, 87 Airport Road, Old Town, ME 04468. Telephone: (207) 827-1813. Fax: (207) 287-2400. TTY: Maine Relay 711. Email: [Allison.M.Kanoti@Maine.gov](mailto:Allison.M.Kanoti@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No cost incurrence required. A total of $150,000 has been allocated to be distributed for browntail moth mitigation. Municipalities or Counties may choose to apply for funding, which could result in costs related to staff time.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §8321

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

AGENCY WEBSITE: <https://www.maine.gov/dacf/mfs/forest_health/index.htm>.

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: [Shannon.Ayotte@Maine.gov](mailto:Shannon.Ayotte@Maine.gov).

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

CHAPTER NUMBERS AND TITLES:

1. **Ch. 10 Subsection 27.2**, Supervised Community Confinement

2. **Ch. 10 Subsection 27.3**, Community Transition Program

3. **Ch. 10 Subsection 27.4**, Furlough Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2022-P201, P202, P203**

**BRIEF SUMMARY**:

**1. Ch. 10 Subsection 27.2**, “Supervised Community Confinement”: The Department proposes to repeal and replace Ch. 10, “Supervised Community Confinement”. The primary reason this rule is being proposed is to address a statutory change that excludes a client from removal from supervised community confinement if the circumstances of the violation provide immunity to the client under Title 17-A §1111-B. The provisions in this rule establish the timeframes for when a resident of a Department of Corrections adult facility is eligible to apply for transfer to supervised community confinement, the application process, the criteria and process for determining whether a resident is approved for transfer, and requirements after transfer to supervised community confinement.

**2. Ch. 10 Subsection 27.3**, “Community Transition Program”: The Department proposes to repeal and replace Ch. 10 Subsection 27.3, “Community Transition Program”. The primary reason this rule is being proposed is to change the timeframe for when a resident of a Department of Corrections adult facility is eligible for a community transition program from 2 years to 3 years. In addition, provisions in this rule establish the application process, the criteria and process for determining whether a resident is approved for a community transition program, and requirements while in the program.

**3. Ch. 10 Subsection 27.4**, “Furlough Program”: The Department proposes to repeal and replace Ch. 10 Subsection 27.4 “Furlough Program”. The primary reason this rule is being proposed is to change the timeframe for when a resident of a Department of Corrections adult facility is eligible for a furlough from 2 years to 3 years remaining on the term of imprisonment. In addition, provisions in this rule establishes the application process, the criteria and process for determining whether a resident is approved for furlough, and requirements while on a furlough.

Copies of the proposed rules are available upon request by contacting the Department contact person or on the Department of Corrections website at <https://www.maine.gov/corrections/policies>

**DETAILED SUMMARY:**

**Under the Ch. 10 Subsection 27.2, Supervised Community Confinement rule**:

**1.** The time eligibility for transfer to supervised community confinement is no more than two (2) years remaining to be served. Further, if the average statewide probation officer case load is no more than ninety (90) clients per probation officer, the eligibility will be expanded from “no more than two (2) years remaining to be served” to “no more than thirty (30) months remaining to be served” or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the resident has received and retained. In addition, the resident must have served either ½ or 2/3 of the sentence depending on the length.

**2.** Criteria and a process are established for determining whether a resident eligible for transfer to supervised community confinement will be approved, with the primary determining factor being the resident’s likelihood of completion of supervised community confinement if transferred.

**3.** Guidance is provided to Department staff as to how to apply the established criteria when conducting a review for transfer to supervised community confinement .

**4.** An appeal process is included that provides that a resident who is eligible for transfer to supervised community confinement but who has not been approved for transfer may appeal that determination.

**5.** Provisions are included for the transfer of terminally ill or severely incapacitated residents to supervised community confinement.

**6.** All residents will be provided written information about supervised community confinement, including eligibility requirements, the criteria and review and approval process, and the mandatory conditions.

**7.** Addresses a statutory change that excludes a client from removal from supervised community confinement if the circumstances and the type of the violation provide immunity to a client when they are experiencing a drug overdose or have requested or are providing assistance to any other person experiencing a drug overdose under Title 17-A §1111-B.

**8.** The Department is required to track data for all residents who apply for supervised community confinement and approval, denial and, if approved, completion of the program. Such data must include, but is not limited to, demographic data regarding race and ethnicity, gender, age, and convictions leading to the resident’s current imprisonment.

**Under the Ch. 10 Subsection 27.3, Community Transition Program rule**:

**1.** Written information about the community transition program, including eligibility requirements, the criteria and review and approval process, and the mandatory conditions shall be provided to residents at intake.

**2.** The timeframe for when a resident of a Department of Corrections adult facility is eligible for a community transition program is no more than three (3) years remaining on the term(s) of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the resident has received and retained.

**3.** Criteria and a process for determining whether a resident eligible for a community transition program are defined.

**4.** Guidance is provided to Department staff as to how to apply the established criteria when conducting a review for community transition program eligibility.

**5.** An appeal process is included that provides that a resident who is eligible for a community transition program but who has not been approved may appeal that determination.

**6.** Mandatory conditions for participation in a community transition program are included.

**7.** Provisions for termination of a community transition program release or a suspension or restriction of privileges are included.

**8.** The term “prisoner” is replaced with the term “resident.”

**Under the Ch. 10 Subsection 27.4, Furlough Program rule**:

**1.** Written information about the furlough program, including eligibility requirements, the criteria and review and approval process, and the mandatory conditions shall be provided to residents at intake.

**2.** The timeframe for when a resident of a Department of Corrections adult facility is eligible for a furlough is no more than three (3) years remaining on the term(s) of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the resident has received and retained.

**3.** Criteria and a process for determining whether a resident eligible for a furlough are defined.

**4.** Furlough sponsor requirements are included.

**5.** Provisions for a medical furlough are described.

**6.** Guidance is provided to Department staff as to how to apply the established criteria when conducting a review for furlough program eligibility.

**7.** An appeal process is included that provides that a resident who is eligible for a furlough but who has not been approved may appeal that determination.

**8.** Mandatory conditions for participation in a furlough are included.

**9.** Provisions for termination of a furlough or a suspension or restriction of privileges are included.

**10.** The term “prisoner” is replaced with the term “resident.”

**PUBLIC HEARING**: November 22, 2022, at 10:00 a.m. *This hearing will be conducted via a Microsoft Teams virtual meeting. Anyone wishing to attend should join the Microsoft Teams meeting accessible at this link* *[Public Hearing for Chapter 10 Rules: 27.2, Supervised Community Confinement; 27.3, Community Transition, and 27.4, Furlough Program](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjAyZGQyZmEtYzZjZC00YTYzLTlkODYtZWIwYjFjNmExM2Yz%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%229872e9d5-880e-4f1f-be1b-6bf71ee7bf8d%22%7d) or* [*https://teams.microsoft.com/l/meetup-join/19%3ameeting\_NjAyZGQyZmEtYzZjZC00YTYzLTlkODYtZWIwYjFjNmExM2Yz%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%229872e9d5-880e-4f1f-be1b-6bf71ee7bf8d%22%7d*](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjAyZGQyZmEtYzZjZC00YTYzLTlkODYtZWIwYjFjNmExM2Yz%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%229872e9d5-880e-4f1f-be1b-6bf71ee7bf8d%22%7d)

*In addition, directions on how to attend the hearing will be posted on the Department of Corrections website and sent upon request to interested persons.*

*The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before November 15, 2022.*

COMMENT DEADLINE: December 2, 2022. *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.*

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) 287-4370. Email: [Mary.A.Lucia@Maine.gov](mailto:Mary.A.Lucia@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THESE RULES:

**1.** Ch. 10 Subsection 27.2, Supervised Community Confinement: 34-A MRS §3036-A

**2.** Ch. 10 Subsection 27.3, Community Transition: 34-A MRS §3035

**3.** Ch. 10 Subsection 27.4, Furlough Program: 34-A MRS §3035

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

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

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Maine Center for Disease Control and Prevention (MaineCDC)**

CHAPTER NUMBER AND TITLE: **Ch. 270**, Rules For Sample Collection and Drug Testing in Suspected Operating Under the Influence Cases

PROPOSED RULE NUMBER: **2022-P204**

BRIEF SUMMARY: This proposed routine technical rule change updates certification guidelines and testing methods for law enforcement agencies and laboratories involved in testing of persons suspected of operating under the influence of intoxicating liquor or drugs. (Public Law 2019 Ch. 368). Under this rule, laboratories must be accredited as a Forensic Testing Laboratory to ISO 17025 standards by an accrediting body, such as ANSI National Accreditation Board (ANAB). Proposed testing methods will enable the laboratory to expand testing methods for more comprehensive and accurate results to ensure accurate and reliable testing for those who rely on legally defensible testing. The proposed rule change 1) replaces the term “urine drug analysis” with “toxicology analysis,” where applicable; 2) replaces the term “substance of abuse” with “substance of use,” for consistency with changes in related rules and regulations; and 3) updates the reference to the lab’s accreditation board, removing “ASCLD-LAB and the Society of Forensic Toxicologists (SOFT),” the specific names listed in rule for approving bodies of proficiency testing programs. The proposed rule clarifies requirements related to procedure manuals and sample collection and storage, and further clarifies release of samples. Additionally, the rule change proposes a revised title (*Sample Collection And Drug Testing Rule For Suspected Operating Under The Influence Cases*), changes to format to be consistent with agency standard, and minor changes to further clarify and improve the rule.

PUBLIC HEARING: Not scheduled. (5 MRS §8053(5).)

COMMENT DEADLINE: Saturday, December 3, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Bridget Bagley, MaineCDC, 11 State House Station - 286 Water Street, Augusta, ME 04333. Telephone: (207) 287-9394. Fax: (207) 287-5807. TTY: 711. Email: [Bridget.Bagley@Maine.gov](mailto:Bridget.Bagley@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 29-A MRS §§ 2431, 2524, 2527

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

MAINECDC RULES WEBSITE: <https://www.maine.gov/dhhs/mecdc/rules/>.

MAINECDC WEBSITE: <https://www.maine.gov/dhhs/mecdc/>.

MAINECDC RULEMAKING LIAISON: [Tera.Pare@Maine.gov](mailto:Tera.Pare@Maine.gov).

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

DHHS RULEMAKING LIAISON: [Sara.Gagne-Holmes@Maine.gov](mailto:Sara.Gagne-Holmes@Maine.gov).

AGENCY: **01-017** – Department of Agriculture, Conservation and Forestry (DACF), **Maine State Harness Racing Commission (MSHRC)**

CHAPTER NUMBER AND TITLE: **Ch. 7**, Racing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P205**

BRIEF SUMMARY: The proposed rule changes include the following:

* **Steward’s List, Sec. 7**. Allowing a horse not to have to qualify after making a break off a qualifier.
* **Claiming Procedure, Sec. 17**. Eliminates claiming authorizations and allows for a claimant to withdraw a claim 10 minutes prior to the start of the race, and provides it is a level 2 violation if a person associated with the owner or trainer of a claimed horse to disrupt the process of the claim exchange.
* **Conditioned races, Sec. 18**. Allows for a Track Master Classification to be part of writing classes.
* **Declaration Requirements, Sec. 23**. Encourages entering a horse online to promote this type of entry. Provides that it is a level 2 violation if the owners of a horse are not fully licensed by the Commission prior to declaration.
* **Draw, Sec 30**. Adds Random Draw by USTA as a method to Draw for post positions and provides that if necessary to reopen a race, notice of the same will be made at least once by text message alert.
* **Falling or Unseating Driver, Sec. 45**. Adds language that any horse that falls on the Track will be scratched regardless of the approval of a State Veterinarian.
* **Driving Violations, Sec. 53**. Adds unnecessary conversation among drivers on the track and failure to wear helmets with fastened chinstraps as conduct detrimental to the sport.
* **Racing Objections Sec. 55**. Extends the time to object or complain about a driving violation or other misconduct to a judge to before the race is declared official.
* **Minor changes and clarifications** to the following Sections: 6 – Race Meet Standards and Eligibility; 12 – Condition Sheets; 18-A – Maine Owned or Bred Races; 46 – Duties of Trainer; 52 – Admission to the Paddock; 57 – Contested Races and Unsatisfactory Drives; 58 – Placing Offending Horses

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 using the United States Trotting Association rules and changing language in the MSHRC rules to make the existing rules more definite for both the participants, as well as the officials. The proposed changes will help the industry to keep current with the more modern technology that is available such as microchipping, freeze branding, changes to the Draw process, and trainer electronic eligibility documentation.

PUBLIC HEARING: December 20, 2022: Room 101, Deering Building, 90 Blossom Lane, Augusta, Maine. Starting Time: 9:00 a.m.

COMMENT DEADLINE: December 30, 2022, at 11:59 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Shane Bacon, 28 State House Station, Augusta, ME 04333-0028. Telephone: (207) 287- 7568. Email: [Shane.Bacon@Maine.gov](mailto:Shane.Bacon@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 8 MRS Sections §§ 263-A, 268; 279-A.

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

MSHRC WEBSITE: <https://www.maine.gov/dacf/harnessracing/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. 274**, Rules for Growing and Processing Hemp

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P206**

BRIEF SUMMARY: These rules establish the requirements for becoming licensed to grow or process hemp, including fees, application and licensing processes, and procedures for monitoring the growth and processing of hemp. These rules also align with the Department’s State of Maine Hemp Program Plan approved by the United States Department of Agriculture, Agricultural Marketing Service.

PUBLIC HEARING: November 28, 2022 – 1 to 4 p.m. - in Room 101 Deering Building, 90 Blossom Lane, Augusta, ME 04333

COMMENT DEADLINE: 5:00 p.m. January 5, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Gary Fish, Maine DACF, Plant Health Programs, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7545. Email: [Gary.Fish@Maine.gov](mailto:Gary.Fish@Maine.gov).

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

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS Ch. 406-A §2231

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: 7 CFR Part 990

AGENCY WEBSITE: <https://www.maine.gov/dacf/php/hemp/index.shtml>.

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

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

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 8**, Landings Program: Scallop, Herring, Lobster, and Pelagic and Anadromous

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2022-213**

TYPE OF RULE: Routine Technical

CONCISE SUMMARY: This rule makes changes to the reporting requirements for scallop, herring, lobster, and pelagic and anadromous license holders. It changes the frequency of reporting for scallop license holders from trip level data reported monthly to trip level data reported weekly (no later than 11:59 p.m. Sunday) and requires that reports are submitted via an approved electronic mechanism. The data elements in the scallop harvester report remain unchanged. The rule also extends the time frame for which daily reporting is required in the herring fishery, from September 30 to December 30 annually. The data elements in the herring harvester report remain unchanged. The rule clarifies that pelagic and anadromous license holders only need to report those species authorized under the pelagic and anadromous license. Effective January 1, 2023, the rule requires all lobster license holders (except apprentice and noncommercial license holders) to report trip level data monthly and requires reports to be submitted via an approved electronic mechanism. The data elements required in the lobster harvester report remain unchanged.

EFFECTIVE DATE: November 1, 2022

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 11, Scallops: 2022-23 Season**

ADOPTED RULE NUMBER: **2022-214**

TYPE OF RULE: Routine Technical

CONCISE SUMMARY: This rulemaking establishes the 2022-2023 scallop fishing season. Daily possession limits of 15 gallons for Zone 1 and Zone 2, and 10 gallons for Zone 3 remain unchanged. For Zone 1, a 60-day season for draggers would begin on December 12, 2022 and the last day of the season would be March 23, 2023. For Zone 1, a 60-day season for divers would start on November 15, 2022 and the last day of the season would be April 29, 2023. For Zone 2, a 70-day season for draggers would start on December 1, 2022 and the last day of the season would be March 30, 2023. For Zone 2, a 70-day season for divers would start on November 17, 2022 and the last day of the season would be April 22, 2023. For Zone 3, a 50-day season for draggers would begin on December 5, 2022 and the last day of the season would be March 28, 2023. For Zone 3, a 50-day season for divers would begin on December 1, 2022 and the last day of the season would be April 29, 2023.

Harvesting of scallops by hand (diving) is restricted to Rotation A (First) only for the 2022-2023 season. Harvesting for scallops by dredge gear is restricted to Rotation B (Second) only for the 2022-2023 season. A new limited access area is proposed for East Moosabec Reach in Zone 2 for the 2022-2023 season. The St. Croix River in Zone 3 re-opens to harvest for the 2022-2023 season.

DMR would maintain the following Limited Access Areas: Western Penobscot Bay, Muscle Ridge, Whiting and Denny’s Bays. Additionally, the following existing targeted closures based on depletion, high concentrations of seed/sublegal scallops and/or the presence of spat-producing scallops would be maintained: Lower Muscle Ridge, Upper Sheepscot River, New Meadows River, Card Cove and Beals-Jonesport Bridge.

EFFECTIVE DATE: November 1, 2022

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 34**, Groundfish Regulations (Recreational Groundfish Measures for Cod and Haddock)

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2022-215**

CONCISE SUMMARY: On September 1, 2022, DMR adopted an emergency rule to be consistent with a NOAA Fisheries federal rulemaking. DMR is adopting the emergency rule as part of its regular rules. Consistent with the existing emergency rule, this rule implements regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. The bag limit for Gulf of Maine haddock is increased to 20 fish, with the fishing season and minimum size remaining unchanged. The season for Gulf of Maine cod is expanded such that cod may be possessed on board charter, party, or recreational fishing vessels from April 1-14, inclusive, and from September 1 – October 7, inclusive. The minimum size for Gulf of Maine cod is also increased to 22 inches, and there is no change to the 1-fish bag limit. This action ensures compliance with the federal fishery management plan. It also expands recreational fishing opportunities for these species in Maine state waters.

EFFECTIVE DATE: November 1, 2022

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 52**, Atlantic Mackerel

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2022-216**

CONCISE SUMMARY: This rule establishes a 20-fish per person per day recreational take and possession limit for Atlantic mackerel. Atlantic mackerel caught on a recreational, party, or charter vessel can be pooled in one or more containers; compliance with the 20-fish limit will be determined by dividing the number of Atlantic mackerel onboard by the number of persons onboard. Atlantic mackerel caught recreationally may be communally stored in dockside bait pens. Mackerel purchased from a lawful bait dealer with proof of receipt do not count towards the 20 fish possession limit. Similarly, chunked frozen mackerel do not count towards the 20 fish limit. Individuals who hold a commercial pelagic and anadromous fishing license are exempt from the possession and take limit. Further, the possession limit does not apply to several commercial licenses including lobster and crab fishing licenses, finfish licenses, and wholesale and retail licenses issued by the Maine Department of Marine Resources.

EFFECTIVE DATE: November 1, 2022

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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

CHAPTER NUMBER AND TITLE: **Ch. 180**, Insurance Holding Company System Model Rule with Reporting Forms and Instructions

ADOPTED RULE NUMBER: **2022-217**

CONCISE SUMMARY: The purpose of the proposed amendment is to implement amendments to the *Maine Insurance Holding Company Act*, 24-A MRS §222, enacted by PL 2021 Ch. 521. These changes are based on amendments to the NAIC Insurance Holding Company System Model Rule (Model #450) adopted in 2020 and 2021, addressing the Group Capital Calculation and the continuity of essential services provided by affiliates.

EFFECTIVE DATE: November 6, 2022

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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, and 5: **MaineCare Rule #300**, Changes to Post-Partum Coverage, and Coverage for Young Adults

ADOPTED RULE NUMBER: **2022-218**

CONCISE SUMMARY: PL 2021 Ch. 461 amended 22 MRS §3174-G to incrementally increase the period of time an individual can receive postpartum coverage. PL 2022 Ch. 519 adjusted the timeframe of those extensions to comply with 42 USC §§ 1396a(e) and 1397gg(e)(l) as amended by PL 117-2, the *American Rescue Plan Act of 2021*. This rulemaking incorporates those extended timeframes into Part 2 §13.l(III) and Part 3 §2.3(1) effective August 1, 2022.

P L 2021 Ch. 461 further amended 22 MR.S §317 4-G to provide MaineCare coverage to non-citizens during their pregnant/postpartum period or under the age of 21 to the extent allowable under federal law. This rulemaking incorporates that coverage into Part 3 §2.3(III). Consistent with amendments made by PL 2022 Ch. 519, and State Plan Amendments ME 22-0020 and ME-20-0021 these changes are, also, effective July 1, 2022.

PL 2021 Ch. 398 Part DDD established 22 MRS §3174-FFF to provide state-funded MaineCare and CubCare to non-citizens under age 21 who would be eligible for the federally-funded program if not for their immigration status. This rulemaking incorporates that program in the definitions of "Cub Care" and "Coverage for Noncitizens Under Age 21" in Part 2 §1, Part 3 §2.1(V), and Part 5 §3(C) effective July 1, 2022 consistent with the timeframe in law.

Consistent with 8 USC §1612(b)(2)(G) as established by the *Consolidated Appropriations Act*, 2021, PL 116-260, §208, this rulemaking extends MaineCare coverage to otherwise eligible non-citizens with Compact of Free Association (COPA) status. This addition of Subparagraph P to Part 2 §3.4(1) is effective December 27, 2020.

The Department is adopting the preceding changes retroactively to the dates indicated. Retroactive rulemaking is permissible under 22 MRS §42(8) as these changes afford benefits to more residents of the State of Maine and do not adversely impact applicants, participants, beneficiaries, or providers. The following changes are not adopted retroactively.

This rulemaking clarifies the requirements in Part 2 §§ 3.1, 3.2, 3.3, and 3.4 for applicants and the Department as they relate to noncitizen eligibility. These requirements are consistent with 42 USC §1320b-7 and 42 CFR §435.956(a).

The Department is updating Part 2 §11, and Part 5 §§ 1, 9, and 10 to reflect online application avenues that have changed.

The Department is removing language from Part 3 §2.4 and Part 5 §3 that was necessary immediately after the adoption of other rule changes, but no longer applies.

The following additional updates are being made to Part 2. Section 7.1 is amended to include a more accurate list of programs that do not require cooperation in obtaining medical support from a noncustodial parent. The Department is removing redundant language from Section 12.2. Additionally, general verification requirements in Section 12.1 are modified to specify that the Department must use electronic verifications systems when available. Only if eligibility cannot be determined based on those systems is verification required of the individual. These changes are necessary to comply with 42 CFR §435.949. Section 13.1 is amended to more clearly articulate that while a child may be eligible for continuous coverage for 12 months, the category of eligibility may change. Section 13.3 is reworded to be more consistent with other sections that address change reporting. The Department is removing ambiguous language from Section 13.4. Clarity is added to Section 15 related to the types of computer matches that require timely noticing.

The following additional updates are being made to Part 3. A definition of Federal Poverty Level is added to Section 1. The Department is removing an unnecessary redundant definition in Section 2.1. Section 2.2 is corrected to indicate an individual is still considered to live with their parent or caretaker if they attended the Governor Baxter State School for the Deaf if services cannot be found in their home community. Section 2.3(11) is amended to clearly state that providers must communicate a decision to the Department as a whole, not to a specific regional office. It is further be amended to clarify that Presumptive Eligibility ends the earlier of the date the Department renders a decision or the end of the month following the month the provider renders a decision. Section 4.1.1 is amended to more clearly state which coverage groups may move to Transitional MaineCare. Section 4.2.2 is amended to reflect that recipients who are no longer employed must request a good cause determination before the Department can establish one.

The Department is removing redundant language from Part 5 Section 9.

Finally, some non-substantive changes are being made for clarity and inclusivity. Where possible, similar terms that may have carried stigma or are now out of date are replaced with "noncitizen." The Department is using person first language except where it would create inconsistency in terminology used in other parts of the manual. Language is rendered gender neutral where possible. The Department is converting some language to the active voice for clarity. Some instances of bulleted items are converted to a more consistent outline style. Citations and cross references are updated as needed for accuracy, clarity, and consistency of format. Minor corrections to punctuation, grammar, and spelling are being made. Whole numbers zero through ten are being represented in word form with all other numbers being represented numerically (consistent with the method being applied to all Office for Family Independence Manuals). Date format is being made consistent throughout these parts. Part 2 §8 is reorganized. These changes improve the readability of the manual without changing its meaning.

The adopted rule differs from the proposed rule in the following ways: Amendments have been made to clarify that the SAVE requirements do not apply to citizens or noncitizens who do not declare a qualifying status; The reference to individuals being limited to Emergency Services if SAVE verification could not be completed within the reasonable opportunity period has been removed; the section on Emergency Services has been updated to clarify it does not apply to individuals under 21 or to pregnant individuals eligible for full coverage; References to the "Mountain View Youth Development Center" have been modernized to refer to the "Mountain View Correctional Facility"; And the CHIP coverage for pregnant individuals was updated to- include the correct effective date of July 1, 2022, eliminate language that may have been interpreted to limit the type of care covered, and clarify that coverage continues until the end of the month the pregnancy ends or longer if necessary to allow for adequate and timely notice.

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

EFFECTIVE DATE: November 6, 2022

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