**State of Maine: Notice of Agency Rulemaking – November 30, 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: **01-017** – 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** *(2nd publication)*

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.

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.

AGENCY: **02-288** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers**

CHAPTER NUMBER AND TITLE: **Ch. 12-A**, Licensure by Endorsement - Architects

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P220**

**BRIEF SUMMARY**: The principal reason for this proposed rulemaking is to propose a rule to implement a pathway for licensure by Endorsement pursuant to Public Law 2021, Chapter 167, An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions and Public Law 2021, Chapter 642, An Act to Make Changes to the Laws Regarding Licensure of Certain Individuals from Other Jurisdictions.

**DETAILED SUMMARY:** For a copy of the proposed rule and related documents, please direct your request to the contact person for this filing or visit: <https://www.maine.gov/pfr/professionallicensing/professions/board-of-licensure-architects-landscape-architects-interior-designers> and scroll down to “What’s New.”

Ch. 12-A: Licensure by Endorsement - Architects: This rulemaking proposes to create a new chapter – Ch. 12-A - titled Licensure by Endorsement - Architects. This chapter describes the pathway for Maine licensure for applicants with an active architect license in a U.S. jurisdiction that maintains licensing requirements that are substantially equivalent to Maine’s requirements. This rule implements LD 149 (enacted as PL 2021 c. 167 and codified at 10 MRS §8003-H), *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions*, and LD 2035 (PL 2021 c. 642), *An Act to Make Changes to the Laws Regarding Licensure of Certain Individuals from Other Jurisdictions*.

**PUBLIC HEARING**: N/A. *Pursuant to 5 MRS §8052(1) and §8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing.*

COMMENT DEADLINE: Wednesday, January 4, 2023, by 5:00 p.m. Comments may be submitted in writing to Catherine E. Pendergast, Board Manager, Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers, 35 State House Station, Augusta, ME 04333-0035. Email: Catherine.Pendergast@Maine.gov.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine E. Pendergast, 35 State House Station, Augusta, ME 04333-0035. Telephone: (207) 624-8518. TTY: Maine relay 711. Email: Catherine.Pendergast@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §220-D and 10 MRS §8003-H

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: n/a

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-of-licensure-architects-landscape-architects-interior-designers>.

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Supplemental Nutrition Assistance Program (SNAP) Rules: Alpha Index, and Sections 111-1, 111-6, 222-2, 222-4, 222-5, 444-2, 444-5, 444-8, 444-10, 555-3, 555-4, 555-5, 666-9, 777-4, 999-1, and 999-3

**SNAP Rule #223P** – Omnibus rule change 2022

PROPOSED RULE NUMBER: **2022-P221**

BRIEF SUMMARY: This rule change proposes to implement many changes required by state statute or federal regulation. It proposes to align Maine policy with various federal waivers and options. It proposes to make non-substantive changes to improve the readability and inclusivity of the manual and reduce the use of stigma inducing language.

Consistent with multiple extensions of SNAP Waiver 2055 received from Food and Nutrition Services, the Department proposes to extend the waiver of most interview requirements through December 31, 2022. Should additional extensions be approved prior to the adoption of this rule, the adopted rule will reflect the new date. These changes to Sections 222-4(2)(A), 444-5(2)(B)(4)(a), and 666-9(1)(C)(1) would be retroactive to January 1, 2022. Retroactive rulemaking is permissible under 22 MRS §42(8) as the change affords this benefit to more residents of the State of Maine and does not adversely impact applicants, participants, beneficiaries, or providers.

Maine exercises an option for Broad Based Categorical Eligibility under 7 CFR §273.2(j)(2) which has included a 185% Federal Poverty Level (FPL) test. This figure is not included in the figures updated each federal fiscal year per 7 CFR §273.9(a)(4), it is updated as soon as the the FPLs are published. This year’s FPLs were published at <https://aspe.hhs.gov/poverty-guidelines> on January 19. See also, Annual Update of the HHS Poverty Guidelines, Federal Register 87:14 (January. 21, 2022) p. 3315, <https://www.govinfo.gov/content/pkg/FR-2022-01-21/pdf/2022-01166.pdf>. The Department proposes to incorporate these figures effective January 12, 2022. Further, the Department proposes to increase this income limit from 185% of the FPL to 200% as permitted under 7 CFR §273.2(i)(2)(ii)(A) and required by 22 MRS §3104(13) effective July 1, 2022. Retroactive rulemaking is permissible under 22 MRS §42(8) as these changes afford this benefit to more residents of the State of Maine and do not adversely impact applicants, participants, beneficiaries, or providers. These changes to Section 444-8(2) and Section 999-3 Chart 4 would make SNAP benefits and the related SNAP Employment and Training (E&T) services available to more Maine households.

The Department proposes to implement various budgeting figures as required by 7 CFR §273.9(d). It requires that SNAP income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (USDA) COLA Memos FY2022 issued August 9 and 16, 2021 provided more generous income limits, maximum and minimum allotments, standard deductions, maximum shelter deduction, homeless shelter deduction, asset limits, and income change reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to increase using The Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, and were submitted to and approved by USDA. Retroactive rulemaking is permissible under 22 MRS §42(8) as these changes afford this benefit to more residents of the State of Maine and do not adversely impact applicants, participants, beneficiaries, or providers. These changes to Section 999-3 would make SNAP benefits and the related SNAP E&T services available to more Maine households and increase the benefit amounts for some.

The Department proposes to update the open sections consistent with the recent change of the terms “Food Supplement” and “Food Supplement Program” to “Supplemental Nutrition Assistance Program” and, by extension, their associated abbreviations to “SNAP” or other substitutable terms. This change is consistent with the terminology used in federal law and regulation as well as signage and other materials seen throughout the state and nation. Further, PL 2021 c. 398 Part OO made this change throughout Maine’s revised statutes. This change would be reflected in all uses of the terms and abbreviations in sections included in this rulemaking (unless they refer only to a time prior to the statutory change). The “FS” would be removed from all section numbers. Similarly, references to “coupons” would be updated to “benefits” as coupons are no longer issued.

The Department proposes the following changes to improve the readability of the manual and improve the ease of making references and citations within the manual. Where practical, phrases would be converted to active voice. To the extent possible, text would be rephrased to provide an objective set of rules rather than instructions to Department staff. Some text would be moved within a section to consolidate information, reduce redundancies, or improve the flow. Some terms would be eliminated for consistency. (E.g., the term “agency” would be replaced with “Department” when referring to Maine’s Department of Health and Human Services.) Gender specific terms would be converted to gender neutral terms in the interest of inclusivity. The enumeration of paragraphs, subparagraphs and so on, and the representation of numbers would be updated as part of an ongoing, office-wide effort at standardization and clarity. Outdated abbreviations, such as JTPA, would be eliminated or updated. Stigma inducing language would be updated. (E.g. “alcohol treatment centers” would be changed to “centers for the treatment of Substance Use Disorders”.)

The Department proposes to change all references to “recertification form” to “renewal form” consistent with the renaming of this document in print and online.

The Department proposes to add consistency to the language related to the submission of applications, renewals, and six-month-reports, and meeting interview requirements. These forms can, now, be submitted on paper, electronically, or telephonically. Further-, interviews may be completed in person, by phone, or, in some cases, through Department established video conferencing sites. Language that referenced “showing up” for an interview or submitting a form in a specific medium would be updated accordingly.

The Department proposes to provide more clarity around questionable information (which would need to be verified) and unclear information (which sometimes triggers the need for an interview). Instances of “questionable” in the sections being reviewed for this rulemaking would be replaced with language specifying “contradictory to information known to or received by the Department.” The definition of “questionable information” would be modified to use “contradictory to” rather than “inconsistent with” in the same context. It is necessary to retain the definition as some sections not being reviewed as part of this rulemaking use the term “questionable information”. A definition of “unclear information” would be added.

The Department proposes to clarify that a parent can be a separate household from their child(ren) for the duration of a court order granting a third-party guardianship of the child(ren). This change would reduce confusion for applicants, participants and Department staff as the current rule does not specify a timeframe.

The Department proposes to update language related to job quit penalties to clarify that not all work registration exemptions apply to job quit. Further edits would clarify the minimum job characteristics to remedy a job quit disqualification and remove any language that could be interpreted to apply the disqualification to the entire household. These changes are intended to reduce confusion for applicants, participants and Department staff.

The Department proposes to clarify that disqualifications for noncompliance with another means tested program are applied based on the policy in effect at the time of the infraction. Further, language would be added, consistent with 7 CFR §273.11(j), articulating that SNAP benefits may not be increased based on a decrease in other means tested benefits that results from noncompliance.

Per 7 CFR §273.9(d)(6)(iii)(E), the Department proposes to use standard utility allowances (SUA) for all households with qualifying expenses. Further, the Department proposes to apply each SUA in full to any household paying a portion of the qualifying expenses. This standardization would reduce confusion for applicants, participants, and Department staff; reduce the burden on many households, including those with self-employment, to provide documentation; and increase benefit amounts for many households.

In addition to the other modifications detailed in this document, the Department proposes the following updates to Section 444-2, Self-employment, Migrant Farm Workers, and Contract Employees. Language would be clarified and standardized to “largest income source anticipated for the 12 month periods” rather than the less specific and insconsistent terms “major source of support,” “supplements,” etc. Clarification would be added that verification is not only for income, but for self-employment related assets and expenses as well. The allowable expense for child or adult care meals would be updated consistent with 7 CFR §273.11(b)(3)(i). Clarification would be added that the application of shelter expenses in the case of business use of the home is at the household’s discretion. The method of determining business use of the home expenses would be clarified. Clarification would be added related to when rental income is treated as earned or unearned income. Although this clarification is redundant to information in Sections 555-2 and 555-3, the Department believes it warrants reiteration.. The formulas for determining business use of the home expenses in rental situations would be made more precise. Each of these changes would add to the clarity of this section and streamline the process for applicants, participants and Department staff. Relatedly, a definition of “Roomer” would be added to Section 999-1 to distiguish this situation from other rental income.

In addition to the other modifications to Section 444-8 detailed in this document, the Department proposes to remove references to the publication of the 130% and 100% Federal Poverty Level figures. These figures are not adopted upon publication in the Federal Register, but are adopted at the start of the Federal Fiscal Year consistent with their adoption by Food and Nutrition Services.

In addition to the other modifications to Section 555-4, Excluded Income, detailed in this document, the Department proposes to remove the reference to the SCSEP program being administered by the ABLE network. As ABLE does not, currently, administer this program.

In addition to the other modifications detailed in this document, the Department proposes the following updates to Section 555-5, Deductions. A summary, introductory paragraph would be added. A description of the reason for some standard deductions would be added. The exclusion of premiums paid for Office for Family Independence health policies from the excess medical deduction would be eliminated consistent with 7 CFR §273.9(d)(3). The paragraph on Dependent Care Deductions would be significantly reworked to add clarity without making substantive changes. Clarification would be added as to what expenses related to service animals are deductible. When expenses related to a live-in attendant could be applied either as a medical or a dependent care expense, they would be counted as a dependent care expense as that application is to the recipients benefit. Verification requirements for Excess Medical Deductions would be simplified consistent with 7 CFR §273.2(f)(8)(i)(A). Each of these changes would add to the clarity of this section and streamline the process for applicants, participants, and Department staff.

The Department proposes to update language around reporting of unissued benefits to comport the timelines with those in 7 CFR §273.17(a)(1). This change would increase the amount of time participants have to notify the Department of issuance problems. Further, Section 777-4, Replacement of Benefits would be simplified as follows: Reference to benefits being destroyed would be removed as that language was specific to physical coupons and does not apply to electronic benefits; and separate processes related to a disaster declaration would be eliminated as the disaster declaration would constitute the verification required in the general process.

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1) and (8), 3104(13), and 3104-A(1)(C) and (D)

PUBLIC HEARING: Tuesday, December 20, 2022 at 1:00 p.m. in room Main B at 109 Capitol Street, Augusta, ME 04333. *The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Tuesday, December 13, 2022.*

COMMENT DEADLINE: Friday, December 30, 2022 at 5:00 p.m. EST.

Written public comments may be submitted via the link at <https://www.maine.gov/dhhs/ofi/about-us/rules/proposed>.

CONTACT PERSON FOR THIS FILING: Ian Miller, Senior Program Manager, SNAP, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4138. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Ian.Miller@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

OFI RULES WEBSITE: <https://www.maine.gov/dhhs/ofi/rules/index.shtml>.

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: Sara.Gagne-Holmes@Maine.gov.

**ADOPTIONS**

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, Open Water and Ice Fishing Regulations

**Ch. I-A**, State Heritage Fish Waters

ADOPTED RULE NUMBERS: **2022-227, 228**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has adopted rules pertaining to open water fishing and ice fishing. This body of rules is printed in its entirety in the *Open Water & Ice Fishing Laws and Rules* booklet (January 1, 2023 -December 31, 2023) and will be available from the Department, online at [www.maine.gov/ifw](http://www.maine.gov/ifw), as well as license agents. The Department has also added three waters to the State Heritage Fish waters list. For a copy of adopted changes prior to release of the laws and rules booklet, please contact the Agency Rulemaking Contact Person.

EFFECTIVE DATE: January 1, 2023

IFW CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: Becky.Orff@Maine.gov.

IFW WEBSITE: <https://www.maine.gov/ifw/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 252**, Syringe Services Programs Rule

ADOPTED RULE NUMBER: **2022-229**

CONCISE SUMMARY: The adopted rule (1) replaces the term *needle* with *syringe* throughout the rule, including the rule title; (2) replaces *hypodermic apparatus exchange program* with *syringe services program*; (3) updates the name of the Department’s Office of Substance Abuse to Office of Behavioral Health; (4) adds a definition of *Syringe Services Program* to clarify its purpose to replace *Hypodermic Exchange Program*; (5) permits Syringe Services Programs to distribute syringes outside of a 1:1 ratio syringe exchange, allowing a Consumer to receive as many clean syringes as the number of syringes the Consumer presents during an Exchange Event and up to a maximum 100 syringes per encounter if the Consumer does not have used syringe(s) to exchange; and (6) permits a Syringe Services Program to further limit the number of syringes dispensed based on policy. The rule format is updated to be consistent with other Maine CDC rules, grammar corrected, and requirements for syringe services programs are further clarified. Additionally, the adopted rule includes the following changes: dispensing limits are clarified in Section (2)(E) and the provision in subsection F specifying that staff names may be provided upon request by law enforcement has been removed .

Expanding Maine’s 1:1 syringe exchange model to a less restrictive distribution model is supported by research that reports syringe service models based on a client’s need may lead to lower syringe re-use and minimize the spread of blood-borne diseases. The Maine CDC is no longer requiring a one-for-one syringe exchange; however, consistent with the emergency rule, the Department is adopting a limit of 100 syringes per encounter when the Consumer does not have the used syringe(s) to exchange (22 MRS §1341(1)(A)). This middle point is intended to strike a reasonable balance between distributing potentially unlimited syringes to any one Consumer per encounter and the previously restrictive 1:1 exchange, a decision that aims to safeguard against depletion of resource and ensure adequate syringes for as many Consumers as possible.

EFFECTIVE DATE: November 30, 2022

AGENCY CONTACT PERSON: Bridget Bagley, Policy Analyst, 11 State House Station, Augusta, Maine 04333. Telephone: (207) 287-9394. Email: Bridget.Bagley@Maine.gov.

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

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

MAINE CDC RULEMAKING LIAISON: Tera.Pare@Maine.gov.

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

DHHS RULEMAKING LIAISON: Sara.Gagne-Holmes@Maine.gov.

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 #12-22**

ADOPTED RULE NUMBER: **2022-230** *(Emergency)*

CONCISE SUMMARY: Minimum December 2022 Class I price is $25.83/cwt. plus $1.58/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 $29.12/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: December 4, 2022

MMC CONTACT PERSON / RULEMAKING LIAISON: Julie-Marie R. Bickford, Maine Milk Commission – DACF, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: Julie-Marie.Bickford@Maine.gov.

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