

NOTICE OF STATE RULEMAKING

PUBLIC INPUT FOR RULES A list of state agency rule proposals is published here each Wednesday. You can get a copy of a proposed rule by contacting the person listed in the notice. You can comment on a proposed rule by submitting a written comment to the agency or by attending the public hearing, if one is scheduled. If no hearing is scheduled, you can request one. The agency must hold a hearing if it receives 5 or more requests. If you have a disability and need assistance to participate in a hearing you should tell the agency at least 7 days before the hearing. **ONLINE INFORMATION** Weekly notices, full text of adopted rules, and a list of agency rulemaking contacts are available at this website:

<https://www.maine.gov/sos/cec/rules/index.html>

PROPOSALS

AGENCY: 18-125 Department of Administrative and Financial Services (DAFS), Maine Revenue Services (MRS)

CHAPTER NUMBER AND TITLE: Chapter 801, Apportionment

TYPE OF RULE: Routine Technical

PROPOSAL TRACKING NUMBER (formerly, "PROPOSED RULE NUMBER"): 2024-P320

BRIEF SUMMARY: MRS is proposing to amend Rule 801 ("Apportionment") to clarify the sourcing of receipts from the performance of services, including providing an initial set of examples to illustrate sourcing as applied to certain services. For purposes of applying a variation to apportionment, the rule clarifies the definition of compensation with respect to the use of the payroll factor by specifying that 85% of payments made to an employee-leasing company for leased employees and 100% of payments made to a temporary service company for temporary employees are included as compensation. Other formatting and technical changes are made throughout to enhance clarity.

PUBLIC HEARING:

Date: February 19, 2025

Time: 11am - 1pm

Location: Maine Revenue Services, 51 Commerce Drive, Augusta ME 04330

Snow Date if State Offices closed: February 20, 2025 (same time and location)

Virtual Attendance: https://mainestate.zoom.us/webinar/register/WN_aLCMDzQITV-czh1V3xvcTw

COMMENT DEADLINE: March 3, 2025

CONTACT PERSON FOR THIS FILING: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024, (207) 624-9712, alexander.j.weber@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different): N/A

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

STATUTORY AUTHORITY FOR THIS RULE: 36 M.R.S. § 112 & Ch. 821 of Maine Revised Statutes, Title 36

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

AGENCY WEBSITE: www.maine.gov/revenue

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Anya.Trundy@maine.gov

AGENCY: 05-071 Department of Education

CHAPTER NUMBER AND TITLE: Chapter 83, School Transportation Operations Program

TYPE OF RULE: Routine Technical

PROPOSAL TRACKING NUMBER: 2025-P004

BRIEF SUMMARY: Maine Department of Education will no longer be able to support the contract for bus routing software through Transfinder. This rule change would repeal Ch. 83 to eliminate this program. As a result, the funds that were previously allocated for the routing software will now be redistributed to schools based on the Essential Programs and Services (EPS) funding formula. This redistribution will be reflected as an allocation of funding in school administrative units' general budgets. Please note that the funds will not be specifically designated for routing software, but rather as part of the overall cost of education and will be part of the transportation allocation. The Department has determined this to be a more equitable distribution of funding so that all SAUs may benefit.

PUBLIC HEARING *(if any)*: N/A

COMMENT DEADLINE: March 5, 2025; 5 pm

CONTACT PERSON FOR THIS FILING:

AGENCY CONTACT PERSON: Laura Cyr

AGENCY NAME: Department of Education

ADDRESS: 23 SHS, Augusta, ME 04333

TELEPHONE: 207-446-8791

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

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: The fiscal impact for SAUs is indeterminant due to the size of the district, number of students, number of busses, and various accessories the SAU may elect to add to their software purchase. For SAUs which previously received the subsidy, the impact may be between \$8000-\$23,000.

STATUTORY AUTHORITY FOR THIS RULE: Title 20-A, Sections 1, 4001, 5804, 5805, 15603, 15907, 15918; Resolves 2023, Ch. 44 and Title 30-A Sections 5953-E, 6006-E, 6006-F, 6014; Resolve 2007 ch. 174

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

AGENCY WEBSITE: <https://www.maine.gov/doe/home>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: laura.cyr@maine.gov

AGENCY: 12-179 Department of Labor, Board of Occupational Safety and Health

CHAPTER NUMBER AND TITLE: Chapter 11, Occupational Safety and Health Standards for Worker Walkaround Representative Designation

TYPE OF RULE: Routine Technical**PROPOSAL TRACKING NUMBER: 2025-P005**

BRIEF SUMMARY: The purpose of this Chapter is to clarify who may participate in walkaround inspections as an “employee representative,” and, at a minimum, conform to Federal Occupational Safety and Health Administration 29 CFR Part 1903.8 revised as of May 31, 2024, requirements.

DETAILED SUMMARY: The purpose of this Chapter is to clarify who may participate in walkaround inspections as an “employee representative,” and, at a minimum, conform to Federal Occupational Safety and Health Administration 29 CFR Part 1903.8 revised as of May 31, 2024, requirements. The proposed rule builds on the current authorized participants pursuant to 26 M.R.S. § 44-A.

PUBLIC HEARING (*if any*): None, unless requested pursuant to 5 M.R.S. § 8052(1).

COMMENT DEADLINE: Monday, March 3, 2025

CONTACT PERSON FOR THIS FILING:

Isaac H. Gingras

Department of Labor

54 State House Station

Augusta, Maine 04333-0054

207-626-6232

Isaac.H.Gingras@maine.gov

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

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

STATUTORY AUTHORITY FOR THIS RULE: 26 M.R.S. §565

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

AGENCY WEBSITE: <http://www.maine.gov/labor/rulemaking>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:

Isaac.H.Gingras@maine.gov

ADOPTIONS

AGENCY: 13-188 Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 11, Scallops (Chapter 11.08, Targeted Closures: (11) Upper Machias & Little Machias Bay; (12) Cobscook, Whiting & Denny’s Bays; and 13) Upper Western Bay)

ADOPTION TRACKING NUMBER: 2025-008

CONCISE SUMMARY:

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in Cobscook, Whiting & Dennys Bay (Zone 3), Upper Machias and Little Machias Bay, and Upper Western Bay (Zone 2). The Department is concerned that continued harvesting for the remainder of the 2024-2025 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2024 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource.

An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in five important scallop harvest areas. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in these areas as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: Sunday, January 19, 2025

AGENCY CONTACT PERSON: Melissa Smith (207-441-5040)
AGENCY NAME: Department of Marine Resources
ADDRESS: State House Station 21
Augusta, Maine 04333-0021
WEB SITE: <http://www.maine.gov/dmr/rulemaking/>
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TTY: (888) 577-6690 (Deaf/Hard of Hearing)

AGENCY: 01-672 MAINE LAND USE PLANNING COMMISSION, Department of Agriculture, Conservation & Forestry
CHAPTER NUMBER AND TITLE: Chapter 2, Definitions
ADOPTION TRACKING NUMBER: 2025-015

CONCISE SUMMARY:

Chapter 2 defines terms associated with the Maine Land Use Planning Commission's rules. Currently, the Land Use Planning Commission has standards for exterior lighting associated with developments that require a permit (Chapter 10, Section 10.25,F,2 and standards for lighted signs (Chapter 10, Section 10.27,J). The adopted amendments define the term "Light Fixture - Fully Shielded" as referred to in the concurrent revisions to Chapter 10.

EFFECTIVE DATE: Wednesday, January 29, 2025

AGENCY CONTACT PERSON: Stacie Beyer
AGENCY NAME: Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry
ADDRESS: 22 SHS, Augusta, ME 04333
TELEPHONE: 207-287-2631

AGENCY: 01-672 MAINE LAND USE PLANNING COMMISSION, Department of Agriculture, Conservation & Forestry
CHAPTER NUMBER AND TITLE: Chapter 10, Land Use Districts and Standards
ADOPTION TRACKING NUMBER: 2025-016

CONCISE SUMMARY:

Chapter 10 rules establish land use standards for lands within the Maine Land Use Planning Commission's service area. The goal of this rulemaking is to improve landowner compliance with land use standards and resource protections and maintain the ability of landowners to construct certain accessory structures without the need to obtain a permit from the Commission. Specifically, the adopted revisions add a standard requiring a landowner or lessee to provide notice (self-verification) that the construction or placement of an accessory structure will comply with each of the listed standards.

EFFECTIVE DATE: Wednesday, January 29, 2025

AGENCY CONTACT PERSON: Stacie Beyer

AGENCY NAME: Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry

ADDRESS: 22 SHS, Augusta, ME 04333

TELEPHONE: 207-287-2631

AGENCY:01-672 Maine Land Use Planning Commission, Department of Agriculture, Conservation & Forestry

CHAPTER NUMBER AND TITLE: Chapter 10, Land Use Districts and Standards

ADOPTION TRACKING NUMBER: 2025-017

CONCISE SUMMARY:

Chapter 10 rules establish land use standards for lands within the Maine Land Use Planning Commission's service area. The goal of this rulemaking is to update standards for exterior lighting associated with developments that require a permit (Chapter 10, Section 10.25,F,2) and standards for lighted signs (Chapter 10, Section 10.27,J). The rulemaking aims to help ensure there are no undue adverse impacts to natural or scenic resources from unnecessary or inappropriate lighting. Specifically, the update requires lights to be less than or equal to 3,000 Kelvin; requires fully shielded light fixtures for lights over 1,800 lumens; addresses ski areas and outdoor recreation venues; amends the list of exempted activities; requires fully shielded and downward directing lighting for externally illuminated signs; and, requires a black or dark background for internally illuminated signs. The changes also include clerical edits and minor editing for clarity and conciseness.

EFFECTIVE DATE: Wednesday, January 29, 2025

AGENCY CONTACT PERSON: Stacie Beyer

AGENCY NAME: Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry

ADDRESS: 22 SHS, Augusta, ME 04333

TELEPHONE: 207-287-2631

AGENCY: 13-188 Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 11, Scallops (Chapter 11.08, Targeted Closures: (14) West Vinalhaven Islands)

ADOPTION TRACKING NUMBER: 2025-018

CONCISE SUMMARY:

The Commissioner adopts this emergency rulemaking to establish scallop conservation closure around the West Vinalhaven Islands of the Lower Penobscot Bay RA (Zone 2). The Department is concerned that continued harvesting for the remainder of the 2024-2025 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2024 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in this important scallop harvest area. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in these areas as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: Sunday, January 26, 2025

AGENCY CONTACT PERSON: Melissa Smith (207-441-5040)
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AGENCY: 02-514 Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Counseling Professionals Licensure

CHAPTER NUMBERS AND TITLES:

Chapter 1 Definitions
Chapter 2 Licensed Professional Counselors
Chapter 3 Licensed Clinical Professional Counselors
Chapter 4 Licensed Marriage and Family Therapists
Chapter 5 Licensed Pastoral Counselors
Chapter 7-A Continuing Education

ADOPTION TRACKING NUMBERS: 2025-009 (Ch. 1), 2025-010 (Ch. 2), 2025-011 (Ch. 3), 2025-012 (Ch. 4), 2025-013 (Ch. 5), 2025-014 (Ch. 7-A)

CONCISE SUMMARY:

All above chapters are being amended to change "regionally accredited" to "accredited" in order to bring the rules into compliance with a United States Department of Education (DOE) ruling, as set forth in a letter titled Final Accreditation and State Authorization Regulations dated February 26th, 2020, which eliminated the differentiation between "regional" and "national" accreditation, transitioning instead to define "institutional" and "programmatic" accreditation.

The letter further explained that the "Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded."

EFFECTIVE DATE: Sunday, February 2, 2025

AGENCY CONTACT PERSON: Kristina M. Halvorsen, Regulatory Board Manager
AGENCY NAME: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Counseling Professionals Licensure
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