**State of Maine: Notice of Agency Rulemaking – February 5, 2020**

**PROPOSALS**

AGENCY: **06-096 – Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 890**, Designation of PFOS as a Priority Chemical

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2019-P178** *(3rd publication)*

BRIEF SUMMARY: The Department is proposing to adopt a new rule that will designate perfluorooctane sulfonic acid (“PFOS”) as a priority chemical and require reporting for certain product categories that contain this regulated chemical. The proposed rule applies to manufacturers of specified product categories that contain intentionally added amounts of PFOS and its salts, which is often used to make clothing water repellant, among many other uses. The proposed rule was posted to a 30-day public comment period beginning October 2. Prior to the close of the comment period the Department received more than five requests for a public hearing so the comment period was reopened and a hearing held on January 23. The Department is now proposing changes to the draft rule to include specific salts of PFOS, and make other minor changes, and the comment period is being reopened to receive comment on the revised draft.

Copies of the rule are available upon request by contacting the Agency contact person or on the DEP website at http://www.maine.gov/dep/rules/. Written comments may be submitted by mail, e-mail or fax to the contact person before the end of the comment period.

COMMENT DEADLINE: March 9, 2020, 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Kerri Malinowski, DEP, 17 State House Station, Augusta, ME 04333. Telephone: (207) 215-1894. Fax: (207) 287-7826. Email: Kerri.Malinowski@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact on municipalities or counties is anticipated from this proposal.

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §§ 341-H, 1694

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

DEP RULEMAKING WEBSITE: http://www.maine.gov/dep/rules/ .

DEP WEBSITE: http://www.maine.gov/dep/ .

DEP RULEMAKING LIAISON: Mark.T.Margerum@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 #03-20**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P021**

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

PUBLIC HEARING: February 20, 2020, Thursday, starting at 4 p.m., Room 106, Department of Agriculture, Conservation & Forestry, Deering Building, Hospital Street, Augusta, Maine

COMMENT DEADLINE: February 20, 2020

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

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

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

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

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

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

RULE TITLE OR SUBJECT: **Ch. 27**, Retail Margins

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P022**

CONCISE SUMMARY: The principal reason for this rulemaking is the need to establish retail margins for milk sold within the State of Maine in accordance with 7 MRS §2954.

PUBLIC HEARING: February 20, 2020, Friday, starting at 4:15 p.m., Room 106, Department of Agriculture, Food & Rural Resources, Deering Building, Hospital Street, Augusta, Maine

DEADLINE FOR COMMENTS: March 3, 2020

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

THIS RULE WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 7 MRS §2954

AGENCY: **12-179** – Department of Labor (DOL), Bureau of Labor Standards, **Board of Occupational Safety and Health**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Occupational Safety and Health Standards for Construction Industry Employment in the Public Sector

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P023**

BRIEF SUMMARY: The purpose of this chapter is to incorporate by reference certain rules governing Occupational Safety and Health in construction industry employment as promulgated by the Federal Occupational Safety and Health Administration at 29-CFR Part 1926 as most recently amended as of December 5, 2019.

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

COMMENT DEADLINE: March 5, 2020

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

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §565

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

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

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE OF THE RULE: **Ch. 5**, Internal Controls (*including* Appendix A, “Minimum Internal Controls”)

TYPE OF RULE: Routine Technical *(partial amendment)*

PROPOSED RULE NUMBER: **2020-P024**

CONCISE SUMMARY: The rule package replaces rules that were inadvertently removed during the last repeal process.

THIS RULE WILL NOT HAVE A FISCAL IMP ACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 8 MRS §1003(1)(B) & (C)

PUBLIC HEARING: None

DEADLINE FOR COMMENTS: March 6, 2020

AGENCY CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Milton Champion, Executive Director, Gambling Control Unit - DPS, 45 Commerce Drive - Suite 3, Augusta ME 04333-0087. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov .

AGENCY WEBSITE: https://www.maine.gov/dps/gamb-control/ .

AGENCY: **16-219** – Department of Public Safety (DPS), **Office of State Fire Marshal**

CHAPTER NUMBER AND TITLE: **Ch. 51**, Certification Standards for Municipal Code Enforcement Officers and Third-Party Inspectors

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P025**

BRIEF SUMMARY: The purpose of this chapter is to establish the standards and procedures that the Department of Public Safety, Office of State Fire Marshal uses to certify and recertify local code enforcement officers, local plumbing inspectors, building officials, and third party inspectors. The chapter establishes the minimum standards for all code enforcement officers appointed in Maine and recertification standards that recognize the experience and diverse job responsibilities of Maine’s professional code enforcement community. The rules are intended to be flexible to accommodate the range of experiences of code enforcement officers, while laying out basic requirements for newly-appointed code enforcement officers.

PUBLIC HEARING: N/A

COMMENT DEADLINE: March 9, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Michelle Mason Webber, Sr. Planning and Research Analyst, 52 State House Station, Augusta, ME 04333-0052. Telephone: (207) 626-3873. Email: Michelle.Mason@Maine.gov . Website: https://www.maine.gov/dps/fmo/fire-service-laws/rules/proposed .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 30-A MRS §4451

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

AGENCY RULEMAKING WEBSITE: https://www.maine.gov/dps/fmo/fire-service-laws/rules/proposed .

AGENCY WEBSITE: https://www.maine.gov/dps/fmo/

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices, **Order #02-20**

ADOPTED RULE NUMBER: **2020-013** *(Emergency)*

CONCISE SUMMARY: Minimum February 2020 Class I price is $20.80/cwt. plus $1.53/cwt. for Producer Margins, an over-order premium of $1.04/cwt. as being prevailing in Southern New England and $0.93/cwt. handling fee for a total of $24.50/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: February 2, 2020

AGENCY CONTACT PERSON/ RULEMAKING LIAISON: Tim Drake, Maine Milk Commission Agriculture, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: Tim.Drake@Maine.gov .

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

AGENCY: **01-001** - Department of Agriculture, Conservation & Forestry (DACF), **Division of Quality Assurance & Regulations**

CHAPTER NUMBER AND TITLE: **Ch. 332**, Rabbit Processing

ADOPTED RULE NUMBER: **2020-014**

CONCISE SUMMARY: Ch. 332, *Rabbit Processing*, is an existing rule that has not been updated since its adoption in July 27, 1987. Revision of the rule sets the same standards for all rabbit processors at the same time updating the rule to take advantage of current advances in food science and food safety. The proposed rule has been updated to include construction, design and sanitary operation requirement all in accordance with good manufacturing practices. It also addresses, the health and humane treatment of rabbits and establishes lot coding, recordkeeping and labeling requirements to enhance consumer protection.

EFFECTIVE DATE: February 3, 2020

AGENCY CONTACT PERSON: Celeste Poulin, Director, Maine Department of Agriculture, Conservation & Forestry, Division of Quality Assurance & Regulations, 28 State House Station, Augusta Maine 04333. Telephone: (207) 287-3841. Fax: (207) 287-5576. TTY: User Call Maine Relay 711. Email: Celeste.Poulin@Maine.gov .

DIVISION WEBSITE: http://www.maine.gov/dacf/qar/index.shtml .

DACF WEBSITE: http://www.maine.gov/dacf/ .

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 274**, Rules for Growing Hemp

ADOPTED RULE NUMBER: **2020-015**

CONCISE SUMMARY: These rules establish the requirements for becoming licensed to grow hemp, including fees, application and licensing processes, and procedures for monitoring the growth of hemp. The rules also describe the sampling and inspection processes and the potential penalties for violation of the rules or statutes.

EFFECTIVE DATE: February 4, 2020

AGENCY CONTACT PERSON: Shannon Ayotte, Rulemaking Liaison, Maine Department of Agriculture, Conservation & Forestry, 22 State House Station, Augusta Maine 04333. Telephone: (207) 287-5976. Email: Shannon.Ayotte@Maine.gov .

DACF WEBSITE: http://www.maine.gov/dacf/ .

AGENCY: **01-001** - Department of Agriculture, Conservation & Forestry (DACF), **Division of Quality Assurance & Regulations**

CHAPTER NUMBER AND TITLE: **Ch. 361**, On Farm Raising, Slaughter and Processing of Less Than 1000 Ready-to-Cook Whole Rabbits Carcasses

ADOPTED RULE NUMBER: **2020-016** *(New)*

CONCISE SUMMARY: Ch. 361 is being adopted to implement the statutory amendments enacted by the 129th Legislature. 22 MRS §2512 sub-§1 exempts a processor of fewer than 1000 rabbits of their own raising from the statutory licensing requirement. 22 MRS §2517-E sub-§3 requires the Department to establish requirements for the physical facilities and processes used by rabbit producers whose rabbit products are exempt.

EFFECTIVE DATE: February 4, 2020

AGENCY CONTACT PERSON: Celeste Poulin, Director, Maine Department of Agriculture, Conservation & Forestry, Division of Quality Assurance & Regulations, 28 State House Station, Augusta Maine 04333. Telephone: (207) 287-3841. Fax: (207) 287-5576. TTY: User Call Maine Relay 711. Email: Celeste.Poulin@Maine.gov .

DIVISION WEBSITE: http://www.maine.gov/dacf/qar/index.shtml .

DACF WEBSITE: http://www.maine.gov/dacf/ .

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 331**, – Public Assistance Manual (TANF), **TANF #115E** (TANF Relationship Changes) (Chapter II)

ADOPTED RULE NUMBER: **2020-017** *(Emergency)*

CONCISE SUMMARY: The Temporary Assistance for Needy Families (TANF) program and it’s pedecessor, Aid to Families with Dependent Children (AFDC), were established to provide financial support and steps to independence for families with minor children. Federal regulations (45 CFR §206) specify individuals who must be counted as part of the child’s family but do not define who can be counted as part of the child’s family. In the past, the state of Maine has required the individual applying on the child’s behalf to show a close biological or marital relationship to the child(ren). The nature of family structure has evolved significantly in the United States since AFDC was established in 1935. Maine law allows numerous instances where non-relatives can act in the role of a parent (*in loco parentis*), and the Department is taking steps to align TANF policy with related state law and policy which recognizes such relationships.

Pursuant to 5 MRS §8054 the Department finds that emergency rulemaking is necessary to implement these changes as soon as possible given the high number of low income children placed with non-relative guardians as a result of the opioid crisis. According to the Task Force to Address the Opioid Crisis in the State Final Report December 2017 presented to the 128th Legislature:

In 2016 there were a total of 376 drug-induced deaths in Maine (a 38% increase from 2015). The indisputable effects of the opioid crisis are far-reaching and have ripple effects on families and children. The average age of overdose deaths in Maine for 2016 was 41. On a given day in 2017, 9090 Mainers were receiving some form of medication assisted drug treatment. In 2016 there were 1,024 reports regarding infants exposed to substances, constituting 8.1% of all live births in Maine. 8.5% of the general public aged 18 or older have substance use disorders.

These facts demonstrate a sudden and dramatic increase in the number of Maine residents, of child bearing age, who are not able or allowed to keep their children in their homes. These children, who require safe homes, often reside with adults in their community with no biological or marital relationship to the child(ren). These families require supports that the TANF program can provide. Modification of the usual rulemaking procedures under the *Maine Administrative Procedure Act* is necessary to ensure the health and general welfare of Maine citizens, specifically low income children with non-relative legal guardians and said guardians providing their housing and care.

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

EFFECTIVE DATE: January 30, 2020

TANF CONTACT PERSON: Alexandria Lauritzen, TANF Program Manager, Office for Family Independence, Department of Health & Human Services, 109 Capitol Street – 11 State House Station, Augusta, ME 04333. Telephone: (207) 624-4109. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Alexandria.Lauritzen@Maine.gov .

TANF WEBSITE: https://www.maine.gov/dhhs/ofi/forms-and-applications.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 10**, Determination of Assessments

ADOPTED RULE NUMBER: **2020-018**

CONCISE SUMMARY: Pursuant to PL 2019 ch. 470, this rule change adds prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers to the list of health care services entities required to pay annual assessments to support the operational costs of the Maine Health Data Organization.

Copies of these proposed rules can be reviewed and printed from the MHDO website at

<https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

This rule is not expected to have any adverse economic impact on small businesses.

EFFECTIVE DATE: February 4, 2020

MHDO CONTACT PERSON: Karynlee Harrington, Acting Executive Director, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333-0102. Telephone: (207) 287-6722. Email: Karynlee.Harrington@Maine.gov .

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

MHDO RULEMAKING LIAISON: Debra.J.Dodge@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 570** *(New)*, Uniform Reporting System for Prescription Drug Prices

*(This is a routine technical rule only until April 1, 2020, then it is a major substantive rule: PL 2019 ch. 470 section 10.)*

ADOPTED RULE NUMBER: **2020-019** *(New)*

BRIEF SUMMARY: PL 2019 ch. 470, “An Act to Further Expand Drug Price Transparency”, requires prescription drug manufacturers to report to the Maine Health Data Organization no later than January 30, 2020 and annually thereafter, on prescription drug prices when the manufacturer has during the prior calendar year increased the wholesale acquisition cost of a brand-name drug by more than 20% per pricing unit, increased the wholesale acquisition cost of a generic drug that costs at least $10 per pricing unit by more than 20% per pricing unit or introduced a new drug for distribution in this State when the wholesale acquisition cost is greater than the amount that would cause the drug to be considered a specialty drug under the Medicare Part D program.

Prescription drug manufacturers, wholesale drug distributors and pharmacy benefits managers are also required to provide pricing component data per pricing unit of a drug within 60 days of a request by the Maine Health Data Organization. This rule defines “pricing component data” as data unique to each manufacturer, wholesale drug distributor or pharmacy benefit manager that evidences the cost to make a prescription drug available to consumers and the payments received by each manufacturer, wholesale drug distributor or pharmacy benefit manager to make a prescription drug available to consumers, taking into account any price concessions, that is measured uniformly among and between the entities.

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

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 8703(1), 8704(1), 8705-A and 8705-A(3), 8731, 8732, 8733, 8734, 8735 and 8737.

MHDO CONTACT PERSON: Karynlee Harrington, Acting Executive Director, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333-0102. Telephone: (207) 287-6722. Email: Karynlee.Harrington@Maine.gov .

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

MHDO RULEMAKING LIAISON: Debra.J.Dodge@Maine.gov .