**State of Maine: Notice of Agency Rulemaking – February 10, 2021**

**PROPOSALS:** none this week.

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 1**, Detention and Correctional Standards for Counties and Municipalities

ADOPTED RULE NUMBER: **2021-029**

CONCISE SUMMARY: Under the amended rule, the jails are required to have plans in place to prevent and control the outbreak of infectious and communicable diseases that are reviewed by the Department of Corrections and the Maine CDC and are required to report any such outbreaks to the Department and the CDC. They are also required to provide the opportunity for in-person and contact visitation to jail inmates unless one of the exceptions set out in statute exists. They are required to provide female inmates with pregnancy prevention and management services. They are required to provide inmates with a substance use disorder with medication assisted treatment if medically necessary. They are required to have naloxone available. Each jail separately or jointly with other jails is required to appoint a board of visitors. Finally, the jails are required to implement policies, procedures, and practices to prevent the use of excessive force, to include a prohibition on strangleholds, chokeholds, carotid holds, and other techniques that physically compromise the airway, breathing, or blood flow to the head in circumstances where non-deadly force is appropriate; responsibility to intervene in instances of excessive force; and lack of bias in the use of force.

EFFECTIVE DATE: January 20, 2021

MDOC CONTACT PERSON / RULEMAKING LIAISON: Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, ME 04333. Telephone: (207) 530-0983. Email: Mary.A.Lucia@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 20**, Fire Safety in Buildings and Structures

ADOPTED RULE NUMBER: **2021-030** *(Emergency)*

CONCISE SUMMARY: Under current rule, temporary structures including tents can stand for np to and not more than 180 days. After 180 days they must be taken down. This emergency rule extends that time from the current 180 days to 364 days. This additional time will allow restaurants, schools, and other establishments to continue using temporary structures for the purposes of managing gatherings so as to minimize the spread of COVID 19.

EFFECTIVE DATE: January 25, 2021

FIRE MARSHAL CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Senior Research and Planning Analyst, Office of the Maine State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephones: (207) 626-3873; (207) 592-6105 (cell). Email: Richard.E.Taylor@Maine.gov .

FIRE MARSHAL WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 50**, Death Benefits for Firefighters Who Die in the Line of Duty

ADOPTED RULE NUMBER: **2021-031** *(Emergency)*

CONCISE SUMMARY: This rule increases the death benefit to survivors of firefighters who have died while in the line of duty from $50,00 to $100,000 in order to meet the statutorily required increases.

EFFECTIVE DATE: January 25, 2021

FIRE MARSHAL CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Senior Research and Planning Analyst, Office of the Maine State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephones: (207) 626-3873; (207) 592-6105 (cell). Email: Richard.E.Taylor@Maine.gov .

FIRE MARSHAL WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program, **FS 999-3** (Charts): **FS217E**, Increases Pursuant to PL 116-260

ADOPTED RULE NUMBER: **2021-032** *(Emergency)*

CONCISE SUMMARY: This emergency rule implements increases to the maximum and minimum allotments from January 1, 2021 through June 30, 2021. As a result, Food Supplement benefits will increase for some households.

An emergency rule change is necessary to remain in compliance with the federal law resultant from the signing of HR 113 (116th Congress 2020). The subsequent law (PL 116-260) requires that Food Supplement Program maximum and minimum allotments be increased by 15 percent for the period of January 1, 2021 through June 30, 2021. Food and Nutrition Services (FNS) provided the exact figures and a guidance memo December 28, 2020.

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary to immediately provide this essential support during the current health emergency and in order to ensure that Food Supplement benefits are issued appropriately, accurately, and in a timely fashion consistent with federal law. Even prior to the pandemic, Maine had serious challenges with food insecurity. COVID-19 has led to an increase in Maine’s Seasonally adjusted unemployment rate of 1.9 to 7 percentage points, or 12,252 to 48,672 additional Maine residents unemployed (<https://www.maine.gov/labor/cwri/laus.html>). Furthermore, it has resulted in increased food insecurity (<https://www.cnn.com/2020/08/05/business/grocery-prices-rising/index.html> and <https://www.foxnews.com/food-drink/quarter-americans-food-insecurity-amid-coronavirus-pandemic-survey-suggests>) and “put an unimaginable amount of stress on Maine’s food industry” according to the Maine Grocers and Food Producers Association (<https://www.mgfpa.org/maine-dep-delays-enforcement-of-polystyrene-foam-and-plastic-bag-bans/>). The 15 percent increase in the minimum and maximum benefit levels helps all SNAP recipients, and particularly targets the neediest SNAP recipients who already received the maximum allotment for their household size. This is roughly one third of Maine SNAP recipients. Modification of the usual rulemaking procedures under the Maine Administrative Procedure Act is necessary to ensure the public health, safety and welfare of Maine residents by providing additional food security during this public health emergency. Furthermore, non-compliance with this federal change could result in federal penalties or loss of federal funds at a time when the state is facing serious budget challenges. Following this emergency rulemaking, which is effective for 90 days, the Department shall immediately pursue proposed routine technical rulemaking for these changes, which shall provide notice and opportunity for the public to comment, and then finally adopt the rule changes pursuant to 5 MRS §8052.

The *Consolidated Appropriations Act* was enacted on December 27, 2020, requiring changes to be effective January 1, 2021. Accordingly, the Department is adopting this emergency rule to apply retroactively, effective January 1, 2021, to Food Supplement benefit amounts. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

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

EFFECTIVE DATE: February 1, 2021

OFI CONTACT PERSON: Ian Miller, Senior Program Manager – Food Supplement, 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 .

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi> .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 100**, Definitions Regulation

ADOPTED RULE NUMBER: **2021-033**

CONCISE SUMMARY: The Department has amended the definition of “Ozone Transport Region” in ch. 100 to eliminate a conflict with the *Clean Air Act* section 176A Petition pending before the EPA.

EFFECTIVE DATE: February 9, 2021

DEP CONTACT PERSON: Erle Townsend, DEP, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-6115. Email: Erle.Townsend@Maine.gov .

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

DEP BULEMAKING LIAISON: Mark.T.Margerum@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 400**, Maine Solid Waste Management Rules: General Provisions

ADOPTED RULE NUMBER: **2021-034**

CONCISE SUMMARY: The Department has amended the ch. 400, *Maine Solid Waste Management Rules*, to update various definitions in accordance with statutory changes and to require Public Benefit Determinations to include consideration of environmental justice.

EFFECTIVE DATE: February 9, 2021

DEP CONTACT PERSON: Paula Clark, Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017. Telephone: (207) 287-7718. Email Paula.M.Clark@Maine.gov .

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

DEP BULEMAKING LIAISON: Mark.T.Margerum@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 258**, Control of Notifiable Diseases and Conditions

ADOPTED RULE NUMBER: **2021-035**

CONCISE SUMMARY: This routine technical rule amends the Control of Notifiable Diseases and Conditions rule to: 1) add the following five additional disease conditions: Acute flaccid myelitis, *Candida auris*, *Borrelia miyamotoi,* vaping-associated pulmonary illness, and Zika; 2) modify the two listings of multi drug-resistant organisms; 3) remove *Staphylococcus aureus* (MRSA) from the list; 4) update the human immunodeficiency virus (HIV) testing terminology; 5) clarify authority to access health information, including healthcare information from other entities not specified (e.g. MaineCare), through the state health information exchange; 6) clarify laboratories’ electronic reporting requirements (e.g., designated use of HL7 messaging); 7) clarify that when a potentially emerging disease or condition that can cause serious morbidity or mortality and for which the reporting is necessary to monitor, prevent, or control the disease or condition to protect public health, the Department can, through public notice, require immediate reporting for a limited time; and 8) clarify enforcement actions, including referrals to licensing boards and/or the Office of the Attorney General to seek injunctive relief for noncompliance with reporting Category I conditions, specifically, and fine imposition for noncompliance and false reporting. Additionally, the adopted rule includes a change in the proposed frequency for bed occupancy reporting outside of a declared health emergency to allow for weekly reporting and includes additional and revised definitions for *epidemic* and *outbreak*. Provisions of this rule ensure that the Department is consistent with national disease reporting recommendations for conditions impacting public health and safety, to ensure timely and accessible information, as diseases and conditions emerge and data needs evolve. Amendments also require designated health care facilities to report information related to emergency preparedness and responsiveness.

EFFECTIVE DATE: February 17, 2021

MAINE CDC CONTACT PERSON: Bridget Bagley, Policy Analyst, 286 Water Street - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-9394. Email: Bridget.Bagley@Maine.gov .

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

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