**State of Maine: Notice of Agency Rulemaking – February 24, 2021**

**PROPOSALS**

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

CHAPTER NUMBER AND TITLE: **Ch. 60 Section 10**, Kennebec River Fish Restoration Management Plan *(Notice of Rescheduled Public Hearing)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P242** *(3rd publication)*

BRIEF SUMMARY: Due to inclement weather, the public hearing originally scheduled for Chapter 60 had to be postponed. Therefore, DMR has rescheduled the public hearing to take additional public comment on the proposed change. Any written feedback received by the agency during the associated comment period is part if the record and will be considered by DMR in evaluating the proposed change. DMR will also accept written comments ten days after the rescheduled hearing. The public hearing will be held remotely and interested persons need to register to participate in the proceeding no later than 5 p.m. on March 14, 2021. Instructions on how to register and a copy of the proposed rule is available at: <https://www.maine.gov/dmr> .

PUBLIC HEARING: March 15, 2021, 3:00 p.m. *The hearing will be held remotely and may be continued as necessary on March 17, 2021 at the same time and format.* *Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: March 27, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171(2-A)

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

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

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

DMR RULEMAKING LIAISON: Deirdre.Gilbert@Maine.gov .

AGENCY: **02-032** - Department of Professional and Financial Regulation (PFR), **Office of Securities**

CHAPTER NUMBER AND TITLE: **Ch. 510**, Broker-Dealers, Investment Advisers, and Others Using the Internet for General Dissemination of Information About Securities Products and Services

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P024**

BRIEF SUMMARY: The proposed amendment would update the definitions of “Internet” and “Internet communication” and would correct a textual error in Section 3. The text of the proposed rule and the notice of rulemaking may be found at the Office’s website: [www.investors.maine.gov](http://www.investors.maine.gov) .

PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: Written comments must be received no later than 4:30 p.m. on Friday, March 26, 2021, and should be addressed to: Judith M. Shaw, Securities Administrator, 121 State House Station, Augusta, Maine 04333.

CONTACT PERSON FOR THIS FILING / RULEMAKING LIAISON: Judith M. Shaw, Administrator, Maine Office of Securities, 121 State House Station, Augusta, ME 04333-0121. Telephone: (207) 624.8551. Email: Judith.M.Shaw@Maine.gov .

SMALL BUSINESS IMPACT STATEMENT: This amendment would not have a measurable impact on small businesses.

IMPACT ON MUNICIPALITIES OR COUNTIES: None.

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 16401-16404, 16605

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

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

CHAPTER NUMBER AND TITLE: **Ch.** **275**, Emerald Ash Borer Quarantine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P025**

**BRIEF SUMMARY**: This chapter establishes a quarantine against the Emerald Ash Borer (Agrilus planipennis) (EAB) to prevent its movement to un-infested parts of the State, in order to protect Maine's forest and timber resources. This proposal adds an external quarantine to regulate the potential movement of EAB infested materials from other states and Canada. The external quarantine is needed because USDA-APHIS deregulated EAB on January 14, 2021. It also extends the quarantined area in the Northern Aroostook County area. The proposal includes three options for expanding the regulated area for EAB in Aroostook County. Option one is the minimum extension needed to provide an adequate buffer around a new EAB infested area in Van Buren. MFS is concerned that the insect is moving along the Saint John River corridor. Option two adds to option one three towns to the west of the current quarantine to help facilitate the movement of firewood from Fort Kent and Madawaska to Allagash, Saint John Plantation and Saint Francis. Without expanding the quarantine MFS will have to setup a compliance agreement with those firewood dealers and make sure that no ash firewood moves out of the regulated area. Option three includes all of options one and two and adds a large block of towns south of the existing regulated area. This also is to help facilitate movement of firewood from dealers inside the quarantine that rely on customers in Caribou and Presque Isle. All these measures help protect over 90% of the ash resource that is still outside the current quarantine areas of Maine.

**DETAILED SUMMARY**:This chapter establishes a quarantine against the Emerald Ash Borer (Agrilus planipennis) (EAB) to prevent its movement to un-infested parts of the State, in order to protect Maine's forest and timber resources. This proposal adds an external quarantine to regulate the potential movement of EAB infested materials from other states and Canada. The external quarantine is needed because USDA-APHIS deregulated EAB on January 14, 2021.

The proposal also extends the quarantined area in the Northern Aroostook County area. It includes three options for expanding the regulated area for EAB in Aroostook County.

Option one is the minimum extension needed to provide an adequate buffer around a new EAB infested area in Van Buren. MFS is concerned that the insect is moving along the Saint John River corridor.

Option two adds to option one three towns to the west of the current quarantine to help facilitate the movement of firewood from Fort Kent and Madawaska to Allagash, Saint John Plantation and Saint Francis. Without expanding the quarantine MFS will have to setup a compliance agreement with those firewood dealers and make sure that no ash firewood moves out of the regulated area.

Option three includes all of options one and two and adds a large block of towns south of the existing regulated area. This also is to help facilitate movement of firewood from dealers inside the quarantine that rely on customers in Caribou and Presque Isle. All these measures help protect over 90% of the ash resource that is still outside the current quarantine areas of Maine.

If this rule is adopted as is, the quarantined areas will include northeastern Aroostook County, the southwestern corner of Oxford County and all of Cumberland and York Counties. It will also regulate any potentially infested materials proposed for transport or shipment from outside of Maine into un-infested portions of the State.

A copy of the proposed rule can be obtained on the DACF emerald ash borer website at <https://www.maine.gov/dacf/php/caps/EAB/index.shtml>, by emailing gary.fish@maine.gov or by calling Gary Fish at 207-287-7545.

**PUBLIC HEARING**: March 16, 2021, 10:00 a.m. *Hearing held remotely due to COVID 19.*

COMMENT DEADLINE: 5:00 PM April 2, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Gary Fish, State Horticulturist, DACF, 28 State House Station, Augusta, ME 04333-0028. Telephone: (207) 287-7545. Fax: (207) 287-7548.Email: Gary.Fish@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None expected

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS ch. 409 §§ 2301-2303

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

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

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

AGENCY: **02-318** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Electricians’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 120**, Electrical Installation Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P026**

**BRIEF SUMMARY**: The proposed rulemaking would repeal the current ch. 120, *Electrical Installation Standards*, and replace with a rule with the same title and in the same location that adopts and incorporates by reference into board rule the *2020 National Electrical Code*, National Fire Protection Association (“NFPA”) standard #70 (“2020 NEC”) subject to certain amendments and exclusions.

Go to [https://www.maine.gov/pfr/professionallicensing/professions/electricians/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fprofessionallicensing%2Fprofessions%2Felectricians%2Findex.html&data=04%7C01%7CKristin.Racine%40maine.gov%7C372ec7cd583c4daae1de08d871155966%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637383683785693168%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=h2QWuE62es0xadPfP5WrVaFehHve%2Fw9DD85Q5%2BrqQFk%3D&reserved=0) to find the proposed rule and related rulemaking documents.

**DETAILED SUMMARY:** The proposed rulemaking will repeal 02-318 ch. 120, “Electrical Installation Standards” and replace with a new rule with the same title and in the same location that adopts and incorporates by reference into board rule the *2020 National Electrical Code*, National Fire Protection Association standard #70 (“2020 NEC”), subject to certain amendments and exclusions. The board’s current ch.120 adopts and incorporates by reference the *2017 National Electrical Code*, subject to certain amendments and exclusions.

The proposed rule adopts the 2020 NEC with amendments to the following: Article 100, Definitions, Dormitory Unit; Article 200.6(D), Grounded Conductors of Different Systems; Article 210.5(C)(1)(b), Branch Circuits Supplied from More than One Nominal Voltage System, Posting of Identification Means; Article 210.8(B), Ground-Fault Circuit-Interrupter Protection for Personnel, Other Than Dwelling Units; Article 210.8(F), Ground-Fault Circuit-Interrupter Protection for Personnel, Outdoor Outlets; Article 215.12(C)(1)(b) Identification for Feeders, Identification of Ungrounded Conductors, Feeders Supplied from More than One Nominal Voltage System, Posting of Identification Means; Article 230.2(E) Number of Services, Identification; Article 334.10(3), Uses Permitted; Article 338.12(B)(1) and (2), Uses Not Permitted, Underground Service-Entrance Cable; Article 400.12(4), Uses Not Permitted, Where attached to building surfaces; Article 406.9(C), Receptacles in Damp or Wet Locations, Bathtub and Shower Space; Article 625.40, Electric Vehicle Branch Circuit; and Article 702.4(B)(2), Capacity and Rating, System Capacity, Automatic Transfer Equipment.

The proposed rule does not adopt Article 230.67, Surge Protection or Article 334.12(A)(2).

**PUBLIC HEARING**: March 19, 2021, 8:00 a.m. *If the state of emergency in response to the novel coronavirus disease known as COVID-19 is still in place at the time of the hearing, the hearing will be held through remote access pursuant to 1 MRS §403-A. The information needed to access the hearing remotely will be posted on the Board’s website at:* *[https://www.maine.gov/pfr/professionallicensing/professions/electricians/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fprofessionallicensing%2Fprofessions%2Felectricians%2Findex.html&data=04%7C01%7CKristin.Racine%40maine.gov%7C372ec7cd583c4daae1de08d871155966%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637383683785693168%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=h2QWuE62es0xadPfP5WrVaFehHve%2Fw9DD85Q5%2BrqQFk%3D&reserved=0) .*

*If the state of emergency no longer exists at the time of the hearing, the hearing will be held at the Office of Professional and Occupational Regulation, 76 Northern Avenue, Gardiner, Maine. The hearing may be continued on additional dates if necessary. Comments on the proposed rules may be submitted to the Board Administrator no later than 5:00 p.m., Monday, March 29, 2021 by emailing her at* *Electrician.Board@Maine.gov* *or by mailing your comments to her at Electricians’ Examining Board, Attn: Catherine M. Carroll, 35 State House Station, Augusta, ME 04333-0035.*

COMMENT DEADLINE: March 29, 2021 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine M. Carroll, Board Administrator, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Catherine.M.Carroll@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 1153, 1153-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.maine.gov/professionallicensing](http://www.maine.gov/professionallicensing) .

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

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 301**, Fee Schedule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P027**

BRIEF SUMMARY: This proposed rule amendment would provide for some discretion for the Executive Director to authorize payment of a voucher submitted after 90 days of the triggering date upon a showing of good cause. The rule also clarifies what constitutes a triggering event for billing purposes.

PUBLIC HEARING: March 18, 2021 at 1:00 p.m. *The meeting will be by Zoom and details will be posted on our website* [*www.maine.gov/mcils*](http://www.maine.gov/mcils) *on how to connect.*

COMMENT DEADLINE: March 28, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Eleanor Maciag, Esq., Rulemaking Liaison, 154 State House Station - 32 Blossom Lane, Augusta, ME 04330. Telephone: (207) 287-3258. Email: Eleanor.Maciag@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 4 MRS §1804(2)(F), (3)(B), (4)(D)

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

MCILS WEBSITE: [www.maine.gov/mcils](http://www.maine.gov/mcils) .

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 302**, Procedures Regarding Funds for Experts and Investigators

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P028**

BRIEF SUMMARY: Pursuant to 5 MRS §1804(3)(L) the Commission is obligated to “[e]stablish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services[.]” This amended rule provides that the request for funds must be filed according to the procedure directed by the Executive Director. This change would create flexibility on how the information is received by the Commission staff.

PUBLIC HEARING: March 18, 2021 at 1:00 p.m. *The meeting will be by Zoom and details will be posted on our website* [*www.maine.gov/mcils*](http://www.maine.gov/mcils) *on how to connect.*

COMMENT DEADLINE: March 28, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Eleanor Maciag, Esq., Rulemaking Liaison, 154 State House Station - 32 Blossom Lane, Augusta, ME 04330. Telephone: (207) 287-3258. Email: Eleanor.Maciag@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 4 MRS §1804(3)(L), (4)(D)

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

MCILS WEBSITE: [www.maine.gov/mcils](http://www.maine.gov/mcils) .

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

CHAPTER NUMBER AND TITLE: **Ch. 41**, Atlantic Menhaden (2021 Harvest Rules)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P029**

BRIEF SUMMARY: This proposed rulemaking amends the effort restrictions for the commercial menhaden fishery management program. The State Allocation fishery opens Monday, June 14, 2021 at 12:01 a.m. with harvest days on Mondays, Wednesdays, Thursdays and Saturdays. Vessel weekly limit is set at 23,800 pounds (68 barrels). The Episodic Event fishery will operate on Wednesdays and Saturdays with a weekly vessel limit of 14,000 pounds (40 barrels). The Incidental and Small Scale fishery will operate on Mondays, Wednesdays and Saturdays with a daily vessel limit of 6,000 pounds. Transfers at sea to either a harvester or carrier vessels are prohibited during the State Allocation, Episodic Event and Small Scale fisheries. During all three fishery phases, menhaden must immediately be stored in barrels, crates, exactic boxes or fish totes, or a combination thereof, upon harvest and remain stored either on the harvester vessel and the dory towed by the harvester vessel, if utilized.

The use of carriers is prohibited. The transferring of nets while at sea is prohibited. The harvester vessel may utilize one tender (i.e. bug boat) vessel, not to exceed 20 feet in length, to assist in the deploying, tending, and retrieving of the net. Same day reporting is required by commercial menhaden harvesters during the state allocation and episodic event fisheries.

The noncommercial menhaden fishery daily limit has been amended from 1,000 pounds to 1,050 pounds to reflect the amount landed in three barrels.

PUBLIC HEARING: *A remote public hearing will be held as follows: Tuesday, March 16, 2021 at 4 p.m.; the hearing may be continued as necessary on Thursday, March 18, 2021 at the same time and format. Persons interested in participating the hearing need to register no later than 5 p.m. on Monday, March 15th. The registration form can be accessed on DMR’s website (under “News”) at:* [*https://www.maine.gov/dmr/*](https://www.maine.gov/dmr/) *.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: March 28, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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

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

DMR RULEMAKING LIAISON: Deirdre.Gilbert@Maine.gov .

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 268**, Pine Shoot Beetle Quarantine

ADOPTED RULE NUMBER: **2021-038** *(Repeal)*

CONCISE SUMMARY: This proposal will remove the state quarantine requirements that restrict the movement of wood that may be infested with the pine shoot beetle (PSB). PSB is now considered established in Maine and is not seen as a continued threat to Maine’s forests.

EFFECTIVE DATE: February 23, 2021

DACF CONTACT PERSON / RULEMAKING LIAISON: Shannon Ayotte, Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-5976. Email: Shannon.Ayotte@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 271**, Gypsy Moth Quarantine

ADOPTED RULE NUMBER: **2021-039** *(Repeal)*

CONCISE SUMMARY:This proposal will remove the state quarantine requirements that restrict the movement of nursery stock, wood and household articles that may be infested with any stage of the gypsy moth. Gypsy moth is now considered established throughout the entire State of Maine and there is no need to slow its spread inside the state. The USDA-APHIS federal quarantine will remain in place regulating the movement of potentially infested materials from Maine into the uninfested western states.

EFFECTIVE DATE: February 23, 2021

DACF CONTACT PERSON / RULEMAKING LIAISON: Shannon Ayotte, Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-5976. Email: Shannon.Ayotte@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 7**, Rules for Importation, Possession, Propagation, Rehabilitation and Exhibition of Wildlife

ADOPTED RULE NUMBER: **2021-040**

CONCISE SUMMARY: The Department of Inland Fisheries and Wildlife has amended ch. 7 rules to provide the Department with the ability for strategic recruitment and permitting for wildlife rehabilitators. This change will allow the Department to address factors such as geographic location, unique animal care, and changing levels of sick or injured wildlife in the assessment of permitting prospective wildlife rehabilitators. Addressing Departmental needs will enable the wildlife rehabilitation program to provide consistent and reliable rehabilitative support for distressed wildlife. A copy of the complete rule can be requested from the Agency Contact Person.

EFFECTIVE DATE: February 23, 2021

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (2070 287-5202. Email: Becky.Orff@Maine.gov .

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

AGENCY: **10-149** - Department of Health and Human Services (DHHS), **Office of Aging and Disability Services (OADS)**

CHAPTER NUMBER AND TITLE: **Ch. 5 Section 16**, Adult Protective Services: Administration *(Repeal)*

ADOPTED RULE NUMBER: **2021-041**

CONCISE SUMMARY: This rule repeal removes outdated information regarding Adult Protective Services (APS) case records management practices, including retention, transfer, maintenance, and case review. Now that APS files are maintained electronically, this rule fails to reflect the practices of OADS. This rule was part of the *Office of Elder Services Policy Manual*. The Office of Elder Services and the Office of Adults with Cognitive and Physical Disabilities Services merged in 2012, establishing the Office of Aging and Disability Services. As a unit within the Office of Aging and Disability Services, APS follows the record retention policies established by the Department of Health and Human Services as well as the Maine Secretary of State.

EFFECTIVE DATE: February 27, 2021

OADS CONTACT PERSON: Hilary Gove, Policy Writer, Office of Aging and Disability Services, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04330 Telephone: (207) 446-8305. Email: Hilary.Gove@Maine.gov .

OADS WEBSITE: <https://www.maine.gov/dhhs/oads> .

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

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

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 444-7** Households with Special Circumstances, Students: **FS219E**, Temporary Student Policy

ADOPTED RULE NUMBER: **2021-042** *(Emergency)*

CONCISE SUMMARY: This emergency rule implements expanded eligibility for post-secondary students from January 16, 2021 through any certification period begun during the COVID-19 Public Health Emergency (PHE) or within 30 days of the date the COVID-19 PHE is terminated. This temporary expansion of eligibility for students changes the previous restriction on student eligibility for Food Supplement Program benefits. 7 USC §2015(e) and 7 CFR §273.5. As a result, Food Supplement benefits will be available to more individuals.

An emergency rule change is necessary to remain in compliance with federal law. The *Consolidated Appropriations Act, 2021* (PL 116-260) Section 702(e) requires that students enrolled at least half-time in an institution of higher education and are eligible for work study or with an expected family contribution of $0 are not per se ineligible for Food Supplement Program benefits based on their student status. This expansion of eligibility is effective for any certification period in effect between January 16, 2021 and until 30 days after the COVID-19 PHE ends.

This emergency rulemaking is distinct from 217E which was implemented on an emergency basis on February 1, 2021, though both arise from the same *Consolidated Appropriations Act, 2021*.

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 challenges with food security. 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>). COVID-19 has increased food insecurity across the country, including Maine (<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>). Furthermore, “College students are among those struggling the most to make ends meet while they pursue education to achieve greater economic security for themselves and their familes.” (<https://bangordailynews.com/2020/12/26/opinion/contributors/we-all-have-a-role-to-play-in-ending-hunger-in-maine/>). The expanded student eligibility helps ease the burden for these students and provides an economic boost for local grocers.

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 mandate 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 expanded student eligibility be implemented no later than January 16, 2021. Food and Nutrition Services (FNS) provided the final guidance in a February 2, 2021 memo. Accordingly, the Department is adopting this emergency rule to apply retroactively, effective January 16, 2021, to Food Supplement eligibility. 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 18, 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 WEBSITE: <https://www.maine.gov/dhhs/> .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 11**, Scallops: **11.08**, Targeted Closures: (7) Upper Englishman Bay RA; (8) Addison RA; (11) Cobscook, Whiting & Dennys Bays; (12) Upper Frenchman Bay; (13) Damariscotta River LAA; and (14) West Casco Bay

ADOPTED RULE NUMBER: **2021-043** *(Emergency)*

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in Cobscook, Whiting and Dennys Bays, Upper Frenchman’s Bay, Damariscotta River and western Casco Bay; and, to expand existing closures in Englishman Bay and Addison rotational areas. In Cobscook, Whiting and Dennys Bays, there is an exception to the conservation closure to allow the harvest of scallops by drag on Monday, February 15, 2021 and to allow the harvest of scallops by diving on Saturday, February 20, 2021. The Department is concerned that continued harvesting for the remainder of the 2020-2021 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2020 Spring Scallop survey that is 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 these six scallop resource areas. For these reasons, the Commissioner hereby adopts an emergency closure of Maine’s scallop fishery in these areas as authorized by 12 MRS §6171(3)(A).

EFFECTIVE DATE: February 14, 2021

DMR CONTACT PERSON: Melissa Smith, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 441-5040. Fax: (207) 624‑6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Melissa.Smith@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 24**, Importation of Live Marine Organisms

ADOPTED RULE NUMBER: **2021-044** *(Emergency)*

CONCISE SUMMARY: Routine health surveillance has confirmed the presence of MSX (*Haplosporidium nelsoni*) in Quahog Bay. MSX is a microscopic parasite that affects the health and survival of the American oyster (*Crassostrea virginica*) resource but does not pose a risk to consumers or human health. This emergency rulemaking creates an American oyster restricted area within Quahog Bay and Ridley Cove in Harpswell, Maine. The movement or transfer of American oysters greater than 3 mm in size, from the newly established restricted area to other waters of the state, is prohibited without a permit from the Maine Department of Resources (DMR). Persons will be required to obtain a permit for the movement, but not harvest, of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with Chapter 24.05. This emergency rulemaking is necessary to protect the American oyster resource (aquaculture and wild) from unusual damage and or imminent depletion that would be caused by continued uncontrolled movement of oysters infected by MSX throughout Maine’s waters. As authorized by 12 MRS §6171(3)(A), the Commissioner of DMR adopts this emergency regulation.

EFFECTIVE DATE: February 14, 2021

DMR CONTACT PERSON: Marcy Nelson, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 441-4681. Fax: (207) 624‑6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Marcy.Nelson@Maine.gov .

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