**State of Maine: Notice of Agency Rulemaking – May 12, 2021**

**PROPOSALS**

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program Manual, §§ FS 222-4, 444-5, 666-9, and 999-1: **Food Supplement Rule #216**, Review Interview Waiver

PROPOSED RULE NUMBER: **2021-P071**

BRIEF SUMMARY: This proposed rule change would align Maine’s policy with practice approved under PL 116-159 and the Food and Nutrition Services waiver serial number 2190019 approved on October 21, 2020.

PL 116-159 §4603(a)(1)(A)(iii) allows states to adjust interview requirements through June 30, 2021, consistent with the adjustments provided in the Food and Nutrition Service’s March 26, 2020, blanket approval for adjusting interview requirements. On March 27, 2020 the State of Maine notified the Secretary of Agriculture of its determination to exercise the option to not require a household to complete an interview prior to application approval or recertification, provided the applicant’s identity has been verified and all other mandatory verifications in 7 CFR §273.2(f)(1) have been completed.

Waiver 2190019 allows the Department to recertify households with no earned income, in which all adult members are elderly or disabled without conducting an interview. This process has been determined both effective and efficient by both Maine’s Department of Health and Human Services (DHHS), and the federal Food and Nutrition Services. The current waiver is set to expire May 31, 2022. At this time the Department plans to seek an extension.

This proposed rule change would reduce the administrative burden on Department staff and ease access to Food Supplement benefits for some of Maine’s most vulnerable residents. It would improve food security for these individuals and decrease the likelihood that these particularly vulnerable residents would come into a DHHS office during a public health crisis.

The following additional changes are proposed to modernize the manual and enhance readability.

**1)** References to “recertification” and “redetermination” would be clarified to either “recertification form” when referring to the document, or “eligibility review” when referring to the overall process.

**2)** Minor corrections would be made to typographical errors.

**3)** Numbering and lettering of Subsections, Paragraphs, etc. would be added or standardized as part of an ongoing effort to standardize them not only within this manual but across OFI manuals and facilitate easier citations and cross references.

**4)** Several terms that had been used interchangeably would be consolidated to consistent terms with preference given to terms that are defined within the manual. E.g. “client” and “participant” have been stricken and replaced with one or more of the following terms— “household” when referring to a group defined as such in FS 111-1, “applicant” when referring to an individual defined as such in FS 999-1 as amended by this rulemaking, “recipient” when referring to an individual collecting a benefit, or “resident” when referring to someone who lives in a particular facility. The use of each of these terms has also been reviewed to ensure the correct meaning is conveyed in each instance. Likewise, the term “individual” has been replaced with one of the defined terms when a more precise term is appropriate.

**5)** FS 222-4 would be updated to eliminate the option for Department staff to require a face to face interview for Food Supplement applications and annual eligibility reviews.

**6)** References to “appearing for” or “attending” an interview would be changed to “complete” to reflect the fact that when interviews are conducted, they may not be in person.

**7)** Whole numbers through ten would be represented only by writing out the word. All other figures would be represented, only, in numerical form. This proposed change is part of an Office wide standardization effort to improve the flow of the manual by not representing each figure twice.

**8)** In FS 222-4(3), language would be added specifying that the Department shall notify the household of its rights and responsibilities annually even if no interview is conducted.

**9)** In FS 222-4(4), references to issue resolutions would be changed to clarifying questionable information. This proposed change would shift the language to a term defined within the manual and provide greater clarity.

**10)** Wording changes would be made throughout to active voice when possible to aid in readability and to phrase the manual as objective standards, not an instruction manual for OFI workers.

**11)** In FS 444-2 references to drug addiction or alcoholic rehabilitation would be updated to Substance Use Disorder treatment.

**12)** In FS 444-2, a redundant reference to a work requirement exception was removed as it is addressed in FS 111-5.

**13)** Language would be added to update the names of Departments and Agencies referenced.

**14)** Gender specific pronouns would be replaced with gender neutral ones as part of an Office wide effort toward inclusivity.

**15)** A requirement that the household provide necessary verifications would be added to Section FS 666-9(1) for clarity.

**16)** Clarification would be added throughout Section FS 666-9 that the Department may make a determination that the household is ineligible or still eligible, and, for what benefit level, rather than implying that following the process will always result in continued eligibility.

**17)** Redundant language would be removed where possible to enhance the readability of the manual.

**18)** Several terms in Section FS 999-1 would be removed or reworded based on how or if they were used elsewhere in the manual.

**a)** “Alcohol & Drug Centers” would be changed to “Centers for the Treatment of Substance Use Disorders”. The definition would be modernized. Other terms that refer to these centers, in portions of the chapter that have not been updated as of this rulemaking would be added and reference this definition.

**b)** “Case Name” would be removed.

**c)** In the definition of “Mass Changes” the outdated reference to AFDC would be updated to TANF.

**d)** “Mixed Funded Household” would be removed.

**e)** “Prospective Budgeting” would be removed.

**f)** “Shelter for Battered Persons” would be added as an alternative to “Shelter for Battered Women and Children”. “Battered Persons” is the preferred term and is consistent with federal regulations and is gender neutral. However, not all instances have been updated in the manual through this rule change.

**g)** The definitions for both “Shelter for Battered Persons” and “Shelter for the Homeless” would be modernized.

**h)** The definition of “six-month Report” would be updated to reflect some of the terminology changes above and to allow for one during the certification period following the initial application.

**i)** “Timely Notice” would be removed. (“Advance Notice” is used consistently throughout the manual.)

**19)** The definition of “Applicant” would be updated to clarify that it is the individual for whom benefits are requested, regardless of whether any benefits are actually issued.

**20)** A definition of “Assistance Group” would be added.

**21)** The definition of “Documentation” would be modified in two ways. First, to reflect not only documentation made by Department staff in the case record, but documentary verifications provided by individuals, as both uses of the term permeate other sections of the manual. Secondly, to expand documentation to not only include written documents, but electronic media such as audio recordings, digital photographs, and the like that are commonly provided as verification.

**Department staff will process applications** and annual eligibility reviews for households if they have all necessary verifications. Department staff will interview the household if there is unclear information or the household will be found ineligible. Households that do not qualify for the waivers will still be scheduled for an interview pending any other waiver. Any household requesting an interview will be granted one.

The Department is proposing to adopt this rule with a retroactive application to December 1, 2020. 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.

PUBLIC HEARING: None.

COMMENT DEADLINE: Monday, June 14, 2021.

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FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §42(1) and (8)

OFI RULES WEBSITE: <http://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: Kevin.Wells@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.07(4,6)**, Deer Hunting (Any-deer Permit Allocations)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P072**

BRIEF SUMMARY: The Commissioner of Inland Fisheries and Wildlife is proposing to adopt antlerless deer permit (ADP) numbers for the 2021 regular deer hunting season and special muzzle-loading season by setting specific permit allocations for the 29 Wildlife Management Districts (WMD) as follows:

**WMD - # of Permits**

WMD 1 - 0 permits

WMD 2 - 50 permits

WMD 3 - 75 permits

WMD 4 - 0 permits

WMD 5 - 0 permits

WMD 6 - 350 permits

WMD 7 - 615 permits

WMD 8 - 250 permits

WMD 9 - 65 permits

WMD 10 – 25 permits

WMD 11 - 45 permits

WMD 12 - 440 permits

WMD 13 - 505 permits

WMD 14 - 335 permits

WMD 15 - 11,500 permits

WMD 16 - 10,400 permits

WMD 17 - 15,165 permits

WMD 18 - 380 permits

WMD 19 - 25 permits

WMD 20 - 9,650 permits

WMD 21 - 20,475 permits

WMD 22 - 20,160 permits

WMD 23 - 25,080 permits

WMD 24 - 9,100 permits

WMD 25 - 23,760 permits

WMD 26 - 2,555 permits

WMD 27 - 95 permits

WMD 28 - 35 permits

WMD 29 - 2,100 permits

Subunit 25a - 425 permits

Subunit 26a - 250 permits

**TOTAL PERMITS: 153,910**

The Department is again recommending issuance of bonus antlerless deer permits in two subunits, Subunit 25a and 26a. These additional permits will allow for additional opportunity to harvest deer in areas experiencing elevated levels of Lyme disease, deer-vehicle collisions and public complaints about deer. A complete copy of the proposal may be requested by contacting the Agency Contact Person.

PUBLIC HEARING: Tuesday, June 1, 2021 @ 4:00 p.m. – via video conference (Microsoft Teams). *Contact* *Becky.Orff@Maine.gov* *by close of business May 28, 2021 for details on how to participate.*

COMMENT DEADLINE: June 11, 2021

CONTACT PERSON FOR THIS FILING / SMALL BSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street – 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 11152, 11401

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw) .

IFW RULEMAKING LIAISON: Becky.Orff@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.07**, Deer Hunting (Expanded Archery Areas)

TYPE OF RULE: Routing Technical

PROPOSED RULE NUMBER: **2021-P073**

BRIEF SUMMARY: The Commissioner of Inland Fisheries and Wildlife is proposing to amend existing expanded archery area boundaries. This revision will make language consistent across areas, address examples of incorrect road and landmark names and bring boundary description language in line with mapped boundaries currently presented on the MDIFW website. Additionally, the Bangor and Brewer areas have been combined, and much of the Owl’s Head peninsula is proposed as an addition to the Camden expanded archery area where gun deer hunting is limited by local ordinance to shotgun only. Clarification of islands within WMD 24 rather than the WMD 29 expanded archery area is also included along with revised language for consistency with the online map to include acreage in the town of Ogunquit near Bourne Lane and Shore Road. A complete copy of the proposal may be requested by contacting the Agency Contact Person.

PUBLIC HEARING: Wednesday, June 2, 2021 @ 4:00 p.m. – via video conference (Microsoft Teams). *Contact* *becky.orff@maine.gov* *by close of business June 1, 2021 for details on how to participate.*

COMMENT DEADLINE: June 14, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 10104, 11402

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw) .

IFW RULEMAKING LIAISON: Becky.Orff@Maine.gov .

**ADOPTIONS**

AGENCY: **16-642** – Department of Public Safety (DPS), Office of State Fire Marshal (FMO) - **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Maine Uniform Building and Energy Code - Administrative Procedures

ADOPTED RULE NUMBER: **2021-094** *(Emergency)*

CONCISE SUMMARY: Ch. 1 is an administrative chapter that clarifies who needs to enforce the MUBEC, what codes make up the MUBEC. It also establishes the amendment procedure to the code. The rule contains several critical definitions as required by Statute to clarify the MUBEC. As directed by the legislature this rule makes previously optional standards part of the code and adds one new code. Currently the rule allows for municipalities to adopt and enforce either the building or energy codes or both, this is not what statute allows and this rule needs to be in effect so that code officials are able to enforce minimum health and safety regulations.

EFFECTIVE DATE: May 10, 2021

CONTACT PERSON: Richard Taylor, Sr. Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

BUREAU WEBSITE: <https://www.maine.gov/dps/fmo/building-codes> .

BUREAU RULEMAKING LIAISON: Richard.McCarthy@Maine.gov .

AGENCY: **16-642** – Department of Public Safety (DPS), Office of State Fire Marshal (FMO) - **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 6**, Maine Uniform Building and Energy Code – Energy Code

ADOPTED RULE NUMBER: **2021-095** *(Emergency)*

CONCISE SUMMARY: This rule adopts the 2015 edition of the IECC (International Energy Conservation Code) as required by Statute. Title 10 §9722(6)b. requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of codes as listed. As in any code adoption some requirements are increased to provide for more efficient buildings. The new codes also address ventilation to provide a healthier living environment while providing increased energy efficiency. Some of the main areas of increased requirements are as follows. There is an increase in the insulation required on exterior walls, there are several ways to achieve this requirement that are code compliant, there is a new requirement requiring a blower door test to determine the air infiltration of a structure, along with this the requirement for Air exchanges is reduced from 7 ACH to 3 ACH. There is also a requirement to install an outdoor sensor on hot water boilers to adjust water temperature depending on exterior temperature. And there are increased levels of duct insulation and pipe insulation. Depending on the size of the structure and the design approach to gain compliance the estimate for a simple 1600 sf. structure could range from $2,500-$5,000. This rule also adopts the Stretch energy code as required by July 1 by the legislature.

EFFECTIVE DATE: May 10, 2021

CONTACT PERSON: Richard Taylor, Sr. Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

BUREAU WEBSITE: <https://www.maine.gov/dps/fmo/building-codes> .

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