**State of Maine: Notice of Agency Rulemaking – June 2, 2021**

**PROPOSALS**

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

CHAPTER NUMBER AND TITLE: **Ch. 252**, Rules Governing Seed Certification in the State of Maine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P096**

**BRIEF SUMMARY**: This chapter outlines the procedures and standards governing the certification of seed potatoes in the State of Maine. The proposed changes will include eliminating mandatory post-harvest testing and making allowances for out of state export of seed potatoes for commercial use based upon passing summer field certification. Additional changes include allowing growers who wish to challenge their post-harvest test results the ability to do so for samples with results up to 9% total virus.

**DETAILED SUMMARY**: The changes proposed for the Maine Seed Certification Rules are in response to industry requests involving the out of state export of seed potatoes to other, primarily eastern seaboard states for commercial production. Certification of seed potatoes in Maine is a three-part process first including summer field certification involving visual inspections. The second part of certification includes post-harvest potato virus testing on sap collected from sprouts of tubers that takes roughly a three-month period from November to late January utilizing the ELISA, PCR and other suitable molecular methods in the Departments Certification laboratory. The final step in the process is inspection at shipping point where tubers are inspected for internal and external defects that may affect the quality of the seed.

The Department working with industry is proposing to eliminate the mandatory post-harvest testing requirement for out of state exports for commercial production. Seed lots needing recertification and planting in Maine or seed lots destined for export to Canada or internationally will still need to be post-harvest tested to meet phytosanitary and international agreements.

Other proposed changes to the rule include allowing growers who wish to challenge their post-harvest test results the ability to do so with up to 9% total virus. Currently growers can request a re-test up to any limit and industry has requested this change based on statistical data that will limit the potential number of re-tests that the laboratory staff will need to perform.

These changes are proposed to better maintain seed markets and stabilize supply. These rule changes have been proposed and developed with seed potato industry support. These rules will only impact the potato industry and their customers.

**PUBLIC HEARING**: June 22, 2021, Virtual Zoom Meeting - 3 p.m.

COMMENT DEADLINE: by 12:00 noon Friday July 09, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT STATEMENT: Eric Hitchcock, Seed Certification Program Mgr., Division of Animal & Plant Health, 744 Main Street - Suite 9, Presque Isle, ME 04769. Telephone: (207) 764-2036. Cell: (207) 458-9340. Email: Eric.Hitchcock@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS ch. 401 §§ 2101-2105; 7 MRS ch. 1 §12; 7 MRS ch. 411 §2352

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

WEBSITE: <http://www.maine.gov/dacf/php/seed_potato/index.shtml> .

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

DACF RULEMAKING LIAISON: Shannon.Ayotte@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 #07-21**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P097**

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: June 24, 2021, Thursday, starting at 10:30 a.m. *Because* *of the COVID-19 Public Health Emergency and pursuant to 1 MRS §403-A, enacted by PL 2020 c. 617 part G (eff. March 18, 2020), this hearing could be held remotely by telephonic conference. Directions on how to attend the hearing telephonically will be posted on the Milk Commission website and sent to the interested persons list in advance of June 24, 2021. If the civil emergency is not extended the meeting will be held in Room 101, Deering Building, Augusta, Maine.*

COMMENT DEADLINE: June 24, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MMC RULEMAKING 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> .

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 4**, Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P098**

BRIEF SUMMARY: The Department is proposing a new rule, ch. 4, *Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders*, to govern proceedings in which hearings are held by the Board of Environmental Protection on appeals of certain emergency or unilateral administrative orders issued by the Commissioner.

PUBLIC HEARING: No public hearing is scheduled. *The rule is being posted for a 30-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.*

COMMENT DEADLINE: July 6, 2021 - 5:00 p.m.

CONTACT PERSON FOR THIS FILING: William F. Hinkel, Board of Environmental Protection - Executive Analyst, Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017. Telephone: (207) 314-1458. Fax: (207) 287-2874. Email: Bill.Hinkel@Maine.gov .

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: n/a

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: n/a

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §8051; 38 MRS §§ 341-D, 341-H

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: n/a

DEP RULES WEBSITE: <https://www.maine.gov/dep/rules/index.html> .

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 424**, Lead Management Regulations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P099**

BRIEF SUMMARY: The Department is proposing to repeal and replace ch. 424, *Solid Waste Management Rules: Lead Management Regulations*. Ch. 424 contains the State’s program requirements for lead remediation and related activities in residential dwelling units and child-occupied facilities. This rulemaking is necessitated by changes to EPA requirements for how lead hazards are cleared. These changes effect contractors who provide services to the housing community, ACAP organizations, and lead grant programs throughout the State of Maine. The Department is also proposing changes to the work practice sections, the soil hazards section and the hazard handling sections of ch. 424. In addition definitions were better aligned with EPA definitions.

PUBLIC HEARING: No public hearing is scheduled. *The rule is being posted for a 30-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.*

COMMENT DEADLINE: July 2, 2021 - 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: John A. Bucci, DEP, 17 State House Station, Augusta, ME 04333. Telephone: (207) 557-1194. Fax: (207) 287-6220. Email: John.A.Bucci@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No significant fiscal impact is anticipated from this proposal.

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §1295

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: 38 MRS §§ 1291-1298

DEP RULES WEBSITE: <https://www.maine.gov/dep/rules/index.html> .

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 8**, Landings Program: Menhaden License Update

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P100**

BRIEF SUMMARY: Public Law 2020 ch. 640 created a new license for the harvest of menhaden. Prior to the creation of the menhaden license, menhaden were harvested under the commercial pelagic and anadromous license. This proposed rulemaking updates reporting requirements for menhaden to reflect that the individuals who are required to report menhaden harvest are those that hold the menhaden license under 12 MRS §6502-C. Reporting elements remain the same as in prior seasons.

PUBLIC HEARING: N/A

COMMENT DEADLINE: July 6, 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 §6173

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: 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: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 26**, Sea Urchins: 2021-2022 Season

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P101**

BRIEF SUMMARY: This regulation would establish open harvest days and tote limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 for the 2021-2022 season. For Zone 1, seasons are proposed for divers, trappers, rakers and draggers in 2021-2022, from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2020-2021 season. For Zone 1, the daily tote limit is nine (9), the same as in the 2020-2021 season. For Zone 2, 40-day seasons are proposed for divers, trappers, rakers and draggers in 2021-2022, from which harvesters may only fish up to 30 days of their choosing. This proposal has the same number of fishing days and opportunity days as the 2020-2021 season. For the Whiting & Dennys Bays Limited Access Area in Zone 2, a 15-day season is proposed for Zone 2 divers, trappers, rakers and draggers in 2021-2022. For Zone 2, the daily tote limit is six (6), the same as in the 2020-2021 season.

PUBLIC HEARING: June 23, 2021 - 5:00 p.m., held remotely via Microsoft Teams. *For information on how to join the hearing, please visit:* [*www.maine.gov/dmr*](http://www.maine.gov/dmr)*. Instructions will be posted on DMR’s homepage under meetings and events.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: July 3, 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 §6749

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

CHAPTER NUMBER AND TITLE: **Ch. 42**, Striped Bass

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P102**

BRIEF SUMMARY: On June 1, 2021 the Department of Marine Resources adopted an emergency rulemaking to come into compliance with the Atlantic States Marine Fisheries Commission. The Department incorporates these emergency changes via this regular rulemaking. The rulemaking considers a definition of bait as it pertains to the required use of circle hooks in the recreational striped bass fishery. It also specifies what happens if a striped bass is incidentally caught while targeting other species with a non-circle hook with bait. Further, it maintains the circle hook exemption for rubber and latex tube rigs. In addition to incorporating changes from the emergency rule, this rulemaking also clarifies language in Section 42.01(C). Specifically, it considers removing language prohibiting the use of treble hooks with bait given subsequent language supersedes this prohibition by only allowing for the use of circle hooks with bait. Greater definition on the required use of circle hooks will provide clarity to anglers and Marine Patrol.

PUBLIC HEARING: June 24, 2021 - 5:00 p.m., held remotely via Microsoft Teams. *For information on how to join the hearing, please visit:* [*www.maine.gov/dmr*](http://www.maine.gov/dmr)*. Instructions will be posted on DMR’s homepage under meetings and events.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: July 6, 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 *(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: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 43**, Bluefish

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P103**

BRIEF SUMMARY: Bluefish and striped bass are two species whose recreational fisheries often overlap. Like the striped bass fishery, there is a circle hook requirement in the recreational bluefish fishery. The Department is currently undergoing rulemaking to amend the striped bass regulations to provide greater clarity on the use of circle hooks in the striped bass recreational fishery. This includes providing a definition of bait. To ensure continued consistency between the circle hook requirements for the two fisheries, the Department proposes amending the bluefish regulations to adopt the same definition of bait which is being proposed in the striped bass regulations. The rule also cleans up regulatory language in Section 43.01(C), removing language prohibiting the use of treble hooks with bait given subsequent language supersedes this prohibition by only allowing for the use of circle hooks with bait. Continued consistency in the circle hook requirements for striped bass and bluefish will provide clarity to anglers and Marine Patrol.

PUBLIC HEARING: June 24, 2021 - 5:15 p.m., held remotely via Microsoft Teams. *For information on how to join the hearing, please visit:* [*www.maine.gov/dmr*](http://www.maine.gov/dmr)*. Instructions will be posted on DMR’s homepage under meetings and events.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: July 6, 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 *(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 .

**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 #06-21**

ADOPTED RULE NUMBER: **2021-111** *(Emergency)*

CONCISE SUMMARY: Minimum June 2021 Class I price is $21.54/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt. as being prevailing in Southern New England and $0.47/cwt. handling fee for a total of $24.88/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: May 30, 2021

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

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

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

AGENCY: **10-148** - Department of Health and Human Services(DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 33**, Family Child Care Provider Licensing Rule

ADOPTED RULE NUMBER: **2021-112** *(Emergency major substantive)*

CONCISE SUMMARY: This emergency rulemaking adopts the major substantive provisions of 10-148 CMR ch. 33, *Family Child Care Provider Licensing Rule*, which were provisionally adopted by the Department of Health and Human Services (the "Department") on May 20, 2021. The Maine Legislature has designated portions of the *Family Child Care Provider Licensing Rule* as major substantive, and other sections as routine technical. The routine technical rule provisions of 10-148 CMR ch. 33 are legally effective on May 28, 2021, but, pursuant to 5 MRS §8072, the provisionally adopted major substantive rule provisions have no legal effect until the Legislature authorizes adoption of the major substantive rule.

The Department has determined that immediate adoption of this emergency rule is necessary to avoid an immediate threat to public health, safety, and general welfare. The Department's findings of emergency are more specifically laid out in the emergency basis statement for this rulemaking. Immediate adoption of the major substantive provisions of 10-148 CMR ch. 33, because they provide necessary protections for children, are required by law, and are critical to an enforceable, functional family child care provider licensing rule.

The major substantive provisions of 10-148 CMR ch. 33, *Family Child Care Provider Licensing Rule*, adopted on an emergency basis in this rulemaking address the following: applicant qualifications; compliance with comprehensive background checks pursuant 10-148 CMR ch. 34 (Emergency Rule, effective 9-25-20); requirements of provider handbook, staff manual, and child abuse/neglect policies; fees; record management and retention; certain reporting requirements; compliance with staff-child-ratios, supervision, and qualifications; provider and staff training; child guidance; rights of children and parents; health and medical care; environment and safety; swimming and wading; food and kitchen; infant/ toddler care; nighttime care; and certain enforcement provisions. These rule provisions are described in greater detail in the emergency basis statement for this rulemaking.

EFFECTIVE DATE: May 27, 2021

OCFS CONTACT PERSON: Janet Whitten, Office of Child and Family Services, 2 Anthony Avenue - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. Email: Janet.Whitten@Maine.gov .

OCFS WEBSITE: <https://www.maine.gov/dhhs/ocfs> .

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

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

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 104**, Limitations on Earnable Compensation for Purposes of Calculating Average Final Compensation of State Employees and Teacher Members

ADOPTED RULE NUMBER: **2021-113**

CONCISE SUMMARY: This rule implements 5 MRSA §17001(13)(C), the provisions in the Maine Public Employees Retirement System statute relating to limitations or “caps” on earnable compensation for the purposes of determining average final compensation for state employee and teacher members. Under the current rule, increases in earnable compensation included in benefit calculations for most state employees and teachers is capped at 5% over the prior year and 10% over of the highest three years used in the average final compensation calculation. The amended rule implements the provisions of PL 2019 c. 395, which excludes collectively bargained salary and wage increases and job promotions from the 5%/10% cap. Under the amended rule, those increases received in a member’s primary position are excluded from the cap, and increases from a member’s non-primary position are subject to review upon request. The amended rule also removes obsolete language.

EFFECTIVE DATE: May 30, 2021

MAINEPERS CONTACT PERSON: Kathy J. Morin, Manager, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, P. O. Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: Kathy.Morin@Mainepers.org .

MAINEPERS WEBSITE: <https://www.mainepers.org/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 607**, ASPIRE-TANF Program Manual: **ASPIRE Rule #28A**, TANF Earnings Disregard Extensions

ADOPTED RULE NUMBER: **2021-114**

CONCISE SUMMARY: This rule change aligns ASPIRE Program rules with changes to the *Maine Public Assistance Manual* that require the Department to consider receipt of the TANF earnings “Step” disregard as a condition for extended eligibility when a family has received TANF past the federal and state lifetime limit of 60 months. Step budgeting detailed in the *Maine Public Assistance Manual*, 10-144 CMR ch. 331, ch. IV, “Step Disregard”, requires a disregard of most or all of an individual’s earned income for a period of months. This extension is required in 22 MRS §3762(18) and 10-144 CMR ch. 331 chapter I(J)(3)(g)(i). This extension shall be applied only if the individual both received the Step disregard and reached the 60-month limit on or after October 1, 2019. Therefore, it will not be applied to recipients who reached the limit prior to that date but may be applied to current or future recipients if they qualify for the Step disregard.

Additionally, changes were made to the Index to bring it in line with recent changes to the sections and pages that refer to each topic.

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

EFFECTIVE DATE: June 1, 2021

OFI CONTACT PERSON: Dawn Q. Croteau, ASPIRE Program Manager, Department of Health and Human Services - Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-6968. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Dawn.Croteau@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. 8**, Landings Program: **8.20**, Harvester Reporting: **M.**, Menhaden Harvest

ADOPTED RULE NUMBER: **2021-115** *(Emergency)*

CONCISE SUMMARY: Public Law 2020 ch. 640 created a new license for the harvest of menhaden. Prior to the creation of the menhaden license, menhaden were harvested under the commercial pelagic and anadromous license. This rulemaking updates reporting requirements for menhaden to reflect that the individuals who are required to report menhaden harvest are those that hold the menhaden license under 12 MRS §6502-C. Reporting elements remain the same as in prior seasons. The Commissioner has determined that it is necessary to take emergency action to amend the menhaden harvester reporting section as it relates to reporting requirements specific to fishery operations to ensure accurate and timely monitoring of the menhaden quota and to prevent the imminent depletion of the menhaden resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(A).

EFFECTIVE DATE: June 1, 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 .

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

CHAPTER NUMBER AND TITLE: **Ch. 36**, Atlantic Herring: 2021 Harvest Rules

ADOPTED RULE NUMBER: **2021-116** *(Emergency)*

CONCISE SUMMARY: This rulemaking sets the start date for the Atlantic herring fishery to commence on Sunday, June 13, 2021 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held April 22, 2021. The Days Out Commissioners designate zero landing days June 1 through June 12, 2021. The Days Out Commissioners designate five consecutive landing days, beginning June 13, 2021, from 6:00 p.m. Sunday to 6:00 p.m. Friday, weekly. Vessels issued an Atlantic Herring Limited Access Category A Permit are limited to landing 240,000 lbs. (6 trucks), weekly. Limited access harvester vessels may transfer Atlantic herring at-sea to other limited access harvester vessels. All harvester vessels are prohibited from at-sea transfers of Atlantic herring to carrier vessels. The Commissioner has determined that it is necessary to take emergency action to implement these effort restrictions to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(C).

EFFECTIVE DATE: June 1, 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: (207) 633-9500 (Deaf/Hard of Hearing). Email: Melissa.Smith@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 42**, Striped Bass

ADOPTED RULE NUMBER: **2021-117** *(Emergency)*

CONCISE SUMMARY: This emergency rule is necessary to come into compliance with the Atlantic States Marine Fisheries Commission’s Striped Bass Fishery Management Plan. This rules defines the types of bait with which circle hooks must be used, identifies what happens if a striped bass is incidentally caught while targeting other species with non-circle hooks with bait, and maintaining Maine’s exemption for rubber and latex tube rigs. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the circle hook requirements in the striped bass recreational fishery in accordance with 12 MRS §6171(3)(C). The Department will follow this emergency rule with a regular rulemaking, which will provide an opportunity for public comment.

EFFECTIVE DATE: June 1, 2021

DMR CONTACT PERSON: Megan Ware, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6563. Fax: (207) 624-6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Megan.Ware@Maine.gov .

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 .