**State of Maine: Notice of Agency Rulemaking – September 2, 2020**

**PROPOSALS**

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 #10-20**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P180**

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:September 20, 2020, 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 ch. 617 part G (eff. Mar. 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 September 24, 2020. If the civil emergency is not extended the meeting will be held in Room 101, Deering Building, Augusta, Maine.*

COMMENT DEADLINE:September 24, 2020

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](mailto: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)*:

AGENCY WEBSITE:<http://www.maine.gov/dacf/milkcommission/index.shtml> .

**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 #09-20**

ADOPTED RULE NUMBER: **2020-192**

CONCISE SUMMARY: Minimum September 2020 Class I price is $21.69/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 $25.03/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: August 30, 2020

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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)*:

AGENCY WEBSITE:<http://www.maine.gov/dacf/milkcommission/index.shtml> .

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

CHAPTER NUMBER AND TITLE: **Ch. 2**, Aquaculture Regulations

ADOPTED RULE NUMBER: **2020-193**

CONCISE SUMMARY: This rule corrects references to other chapters or sections of the regulation. It also strikes a provision requiring that the applicant secure a performance bond or escrow account and pay rent on their lease within 30 days of the Commissioner’s final decision. These requirements must still be completed before aquaculture activities can occur, but they are no longer tied to the date a decision is signed. This change reflects administrative processing of new leases and provides for some additional flexibility, particularly for experimental lease holders who have the option to select the start date of their lease term.

EFFECTIVE DATE: August 26, 2020

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

CHAPTER NUMBER AND TITLE: **Ch. 26**, Sea Urchins (2020-2021 Season)

ADOPTED RULE NUMBER: **2020-194**

CONCISE SUMMARY: This regulation establishes 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 2020-2021 season. For Zone 1, seasons are implemented for divers, trappers, rakers and draggers in 2020-2021, from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2019-2020 season. For Zone 1, the daily tote limit is nine (9), the same as in the 2019-2020 season. For Zone 2, 40-day seasons are implemented for divers, trappers, rakers and draggers in 2020-2021, from which harvesters may only fish up to 30 days of their choosing. This adoption has the same number of fishing days and opportunity days as the 2019-2020 season. For the Whiting & Dennys Bays Limited Access Area in Zone 2, a 15-day season is implemented for Zone 2 divers, trappers, rakers and draggers in 2020-2021. For Zone 2, the daily tote limit is six (6), the same as in the 2019-2020 season.

EFFECTIVE DATE: August 26, 2020

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

CHAPTER NUMBER AND TITLE: **Ch. 50**, Spiny Dogfish and Coastal Sharks

ADOPTED RULE NUMBER: **2020-195**

CONCISE SUMMARY: A 2017 assessment found the North Atlantic shortfin mako shark stock to be overfished and experiencing overfishing. In response, NOAA Fisheries implemented measures which aim to achieve at least a 75% reduction in US shortfin mako shark landings. Currently, North Atlantic shortfin mako sharks are not included in the definition of ‘Coastal Sharks’ in the Department’s ch. 50 regulations. As a result, the regulations are silent on the retention of this species. This rule adds North Atlantic shortfin mako sharks to the list of species included under ‘Coastal Sharks’. Given that ch. 50 prohibits the take of species defined as ‘Coastal Sharks’, this rule prohibits the taking of North Atlantic shortfin mako sharks in Maine’s territorial waters.

EFFECTIVE DATE: August 26, 2020

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

CHAPTER NUMBERS AND TITLES:

**Ch. 156**, CO2 Budget Trading Program, *and*

**Ch. 158**, CO2 Budget Trading Program Auction Provisions

ADOPTED RULE NUMBER: **2020-196, 197**

CONCISE SUMMARY: This rule updates the rules governing the Regional Greenhouse Gas Initiative to conform with the updated Model Rule published by RGGI, Inc. on December 19, 2017 and revised on December 14, 2018. The changes maintain Maine’s participation in the program through 2030 and beyond by defining Maine’s emissions cap and rate of cap reduction in alignment with the other participating states. The amendments to ch. 156 and 158 include updates to the CO2 allowance allocation provisions, changes to definitions supporting the updates, and the deletion of the SF6 (sulfur hexafluoride) and energy efficiency offset categories.

EFFECTIVE DATE: August 30, 2020

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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, **Rule #FS213A** (Administration Procedures Claims and Collections): **Section 777-3**

ADOPTED RULE NUMBER: **2020-198**

CONCISE SUMMARY: The purpose of this rule is to update procedures regarding the establishment, compromise and collections of Food Supplement overpayment claims. This rule will more closely align Maine policy with that of other states in the Northeast SNAP Region.

Due to cost effectiveness, Maine will no longer establish overpayment claims equal to or less than $200 for households still participating in the Food Supplement program or $500 for households no longer participating in the program. Maine will now compromise unintentional household errors. Maine may compromise agency and unintentional household errors at the time the claim is established. Additionally, when calculating unintentional household errors Overpayment Specialists will now go back two years from discovery rather than six years.

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

EFFECTIVE DATE: September 1, 2020

AGENCY 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](mailto:Ian.Miller@Maine.gov) .

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

CHAPTER NUMBER AND TITLE: **Ch. 607** – ASPIRE-TANF Program Rules, **Sections 1, 11, and 14**: **ASPIRE Rule #26A** (Support Services Changes)

ADOPTED RULE NUMBER: **2020-199**

CONCISE SUMMARY: This adopted rule makes the following changes:

**Section 1 (Definitions and Descriptions)**

* The definition of “UP (Unemployed Parent), was deleted. This definition has not been relevant since deprivation was removed as a TANF requirement as part of Adopted Rule Number 2017-198.

**Section 11 (Work Activity Services)**

* Sec. I(M) deleted the reference to unemployed parents. These references have not been relevant since deprivation was removed as a TANF requirement as part of Adopted Rule Number 2017-198.

**Section 14 (Support Service Benefits and Payment Provisions)**

* Sec. II(B) The general mileage rate was increased from $ .30/mile to $ .44/mile and the weekly dollar amount cap limit was raised from $120/week to $140/week as part of the proposed rule to keep a consistent amount with other OFI employment and training programs at the time of proposal. In the adopted rule the mileage rate has been increased to $.45/mile, which is consistent with the mileage rate utilized in the State of Maine/Maine Service Employee’s Association (MSEA) collective bargaining agreement. See: <https://www.maine.gov/osc/travel/mileage-other-info> .
* **Section II(B)**. In the final rule, the Department decided to not adopt the proposed elimination of a special mileage rate of $.45/mile for ASPIRE participants who are disabled and who operate their own personal wheelchair lift or other specially equipped vehicle during the course of allowed ASPIRE activities. In response to a Rule Comment, this final rule keeps the special mileage for these individuals. Additionally, the final rule increased the rate to $.55/mile. The rate is consistent with Maine’s standard mileage reimbursement rate paid by the State Controller and published by DAFS at <https://www.maine.gov/osc/travel/mileage-other-info> for Maine State Employees covered under the contract established by MSEA.
* Sec. II(C)(1) (Auto Repairs). The final rule broadened the scope of vehicles for which ASPIRE will pay repairs to include vehicles registered to specified relatives who have a valid license to operate a motor vehicle in Maine, if they reside in the home of the ASPIRE participant, and who would be included in the TANF grant if otherwise eligible. The added language ensures that the automobile being repaired has a licensed operator in the home. There are other support services that can assist with license attainment for ASPIRE participants if needed.
* Sec. II(D) (Auto Liability Insurance). The final rule increased the reimbursement for auto insurance from $300 to $600 per calendar year and includes the requirement that the participant must have a valid Maine driver’s license. The department finds that an increase in the maximum amount of auto insurance paid per calendar year is reflective of current insurance expenses and is consistent with other Office for Family Independence programs.
* Sec. II(K) (Relocation Costs) The general mileage rate was increased from $ .30/mile to $ .44/mile and the weekly dollar amount cap limit was raised from $120/week to $140/week as part of the proposed rule to keep a consistent amount with other OFI employment and training programs at the time of proposal. In the adopted rule the mileage rate has been increased to $.45/mile, which is consistent with the mileage rate utilized in the State of Maine/Maine Service Employee’s Association (MSEA) collective bargaining agreement. See: <https://www.maine.gov/osc/travel/mileage-other-info> .

This rule will not have an adverse impact on municipalities or small businesses.

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

EFFECTIVE DATE: September 1, 2020

AGENCY CONTACT PERSON: Dawn Q. Croteau, ASPIRE Program Manager, Department of Health and Human Services (DHHS) - Office for Family Independence (OFI), 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](mailto:Dawn.Croteau@Maine.gov) .

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

CHAPTER NUMBER AND TITLE: **Ch. 609**, Food Supplement - Employment and Training (FSET) Program Rules: **FSET Rule #FSET4A** *(Repeal and Replace)*

ADOPTED RULE NUMBER: **2020-200**

CONCISE SUMMARY: The Department has redesigned its Food Supplement Employment and Training (FSET) Program, based on federal technical assistance. The new model has moved away from having Maine Department of Labor deliver FSET services to a model used by many other states whereby the Department contracts directly with community-based organizations and educational institutions that deliver employment and training. These providers must follow federal guidelines for SNAP Employment and Training. This repeal and replace rulemaking governs Maine’s FSET program.

This new rule provides as follows:

**1)** Clarifies that FSET services are delivered by contracted providers who must deliver service components that meet federal standards;

**2)** Lays out the operating procedures including participant, contractor and Department responsibilities;

**3)** Provide a more complete and detailed list of available services and supports;

**4)** Identify priority target groups;

**5)** Section 8(I) (Support Service Limits) sets annual support service limits for participants;

After reviewing Comments, and receiving advice from the Office of Attorney General, the Department made these changes in the adopted rule:

**1)** The Department added additional language to Section 11(II) (“Administrative Hearings”), clarifying what Department actions and determinations can be appealed, and when the request for administrative hearing must be made. The Department added the citation for the *Food Supplement Program Rule*, 10-144 ch. 301, as this rule incorporates the Administrative Hearing process from Section FS 777-1 of that rule.

**2)** The adopted rule also modifies the FSET program, from a mandatory program to an entirely voluntary program. The proposed rule proposed a mandatory/voluntary program. Both commenters (Maine Equal Justice and Preble Street) expressed concern with a mandatory program, pointing to national studies which indicate that voluntary programs for vocational training or work experience yield more engaged participants with stronger outcomes. The Department agrees with the commenters, and is making this change in the adopted rule, to make the FSET program a voluntary program. The Department considers this to be a beneficial change for all Participants.

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

EFFECTIVE DATE: October 1, 2020

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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: **2020-201** *(Emergency)*

CONCISE SUMMARY: The Department of Corrections (Department) adopts an emergency rule amendment in 03-201 CMR ch. 1, *Detention and Correctional Standards for Counties and Municipalities*. The Department is adopting this rule on an emergency basis to immediately ensure that all jails in the State of Maine have communicable and infectious disease prevention and control plans that will address any potential outbreak of COVID-19. This change is necessary in light of several reported cases of COVID-19 in jails, including the recent outbreak of at least 18 positive COVID-19 cases at the York County Jail. This emergency rule adoption is necessary to protect the health of those individuals incarcerated in and working in the jails and to protect against the spread of COVID-19 among individuals in those jails. Standard rulemaking procedures, including prior public notice, receipt of and response to public comments, and a public hearing, are not being followed due to the urgency of the need to respond to the COVID-19 pandemic. This emergency rulemaking will take effect upon filing with the Secretary of State and will remain in effect for ninety days. 5 MRS §8052(6), §8054(3).

EFFECTIVE DATE: August 28, 2020

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

CHAPTER NUMBER AND TITLE: **Ch. 34**, Groundfish Regulations: **34.06**, Recreational Groundfish Restrictions

ADOPTED RULE NUMBER: **2020-202** *(Emergency)*

CONCISE SUMMARY: In order to be consistent with the NOAA Fisheries federal rulemaking which was published on August 14th, the Department is implementing regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. Gulf of Maine cod may be possessed on recreational fishing vessels, which per Section 34.01 are exclusive of charter or party vessels, from September 15-September 30 inclusive, and April 1-April 14, inclusive. Charter or party vessels may possess Gulf of Maine cod from September 8-October 7, inclusive, and from April 1-April 14, inclusive. The rule also modifies the season for Gulf of Maine haddock such that haddock may be possessed on board a party, charter, and recreational fishing vessel from April 1-February 28. In addition to complying with federal law, this regulation will increase recreational fishing opportunity in Maine State waters.

EFFECTIVE DATE: August 28, 2020

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