**State of Maine: Notice of Agency Rulemaking – October 7, 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 #11-20**

PROPOSED RULE NUMBER: **2020-P200**

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: October 22, 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 c. 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 October 22, 2020. If the civil emergency is not extended the meeting will be held in Room 101, Deering Building, Augusta, Maine.*

COMMENT DEADLINE:October 22, 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)*:

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

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 34**, Child Care Provider Background Check Licensing Rule

ADOPTED RULE NUMBER: **2020-210** *(Emergency major substantive)*

CONCISE SUMMARY: Currently, the background check requirements for licensed child care providers are included in the licensing rules for those providers: 10-148 CMR ch. 32 §§ 2.21 and 11.2.3.7 (*Rules for the Licensing of Child Care Facilities*); 10-144 CMR ch. 33 §§ 2(A)(4)(e) and 6(A)-(I) (*Family Child Care Provider Licensing Rule*); 10-148 CMR ch. 36 §§ III(U) and XIII(A)(3)(g); these provisions are repealed through the instant emergency major substantive rulemaking. In the event of conflict between the *Child Care Provider Background Check Licensing Rule* and any other provisions of the licensing rules for child care providers, the terms of this rule supersede such other rules and shall apply.

These provisions add requirements to pre-employment and pre-licensure comprehensive background checks. The policy rationale is to provide greater protection for Maine children receiving child care from licensed child care providers and to comply with statutory requirements set forth in 22 MRS §8302-A 9(1)(J)(2)(K) and 42 USC Section 9858f(b). New requirements include:

\* Mandatory fingerprinting with search of the Federal Bureau of Investigation (FBI) and State Bureau of Identification (SBI) as well as, the National Crime Information Center (NCIC) National Sex Offender Registry.

\* Searching state criminal repositories, state child abuse and neglect registries/databases and state sex offender registries in each state where the individual has resided in the previous five years.

\* Prescribing specific disqualifying offenses in which an individual is deemed eligible or ineligible.

\* Individuals required to receive a qualifying result pursuant to a comprehensive background check as provided for in the *Child Care Provider Background Check Licensing Rule* now include: all current and prospective staff members, all adult household members in a family child care, and any other individual whose activities involve the care or supervision of children or who has unsupervised access to children.

EFFECTIVE DATE: September 25, 2020

OCFS CONTACT PERSON: Janet Whitten, Program Manager, Office of Child and Family Services, Children's Licensing and Investigation Services, 2 Anthony Avenue - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. TTY users call Maine relay 711. Email: [Janet.Whitten@Maine.gov](mailto:Janet.Whitten@Maine.gov) .

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

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@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 #10-20**

ADOPTED RULE NUMBER: **2020-211**

CONCISE SUMMARY: Minimum October 2020 Class I price is $18.45/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt. as being prevailing in Southern New England and $2.79/cwt. handling fee for a total of $24.11/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: October 4, 2020

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

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

AGENCY: **94-457 - Finance Authority of Maine (FAME)**

CHAPTER NUMBER AND TITLE: **Ch. 307**, Maine Seed Capital Tax Program, *Amendment 9*

ADOPTED RULE NUMBER: **2020-212**

CONCISE SUMMARY: The changes proposed by this rule amendment are based on changes to the governing statute, 10 MRS §1100-T, by PL 2020 ch. 616, which became law on March 18, 2020. The law expanded the annual limit on credits from $5 million to $15 million, reduced the credit from 50% to 40%, reduced the amount any company could receive in qualifying investments under the program cumulatively from $5,000,000 to $3.5 million, and instituted a new limit on annual qualifying investments of a single company of $2 million. The new law also increased the reporting requirements on participating companies.

The rule amendment makes these changes, but also increases application fees to more appropriately reflect the significant work involved in processing applications.

EFFECTIVE DATE: October 5, 2020

FAME CONTACT PERSON / RULEMAKING LIAISON: Christopher H. Roney, Finance Authority of Maine, 5 Community Drive, Augusta, ME 04332. Telephone: (207) 623-3263. Email: [croney@famemaine.com](mailto:croney@famemaine.com) .

FAME WEBSITE: <https://www.famemaine.com/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program, **Section FS 999-3** (Charts): **FS215E**, FFY 2021 Budgeting Figures.

ADOPTED RULE NUMBER: **2020-213** *(Emergency)*

CONCISE SUMMARY: This emergency rule implements annual, federally required updates to: the federal poverty levels; maximum allotments; the standard, homeless and maximum shelter deductions for the Food Supplement program. As a result, Food Supplement benefits will change for some households beginning October 1, 2020. 7 CFR §273.9 requires that Food Supplement Program income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances and income change reporting thresholds be updated each year, effective October 1. This year, USDA COLA Memo FY2021 provided more generous income limits, maximum allotments, standard deductions (for most households), maximum shelter deduction, and homeless shelter deduction. The same memo showed no change in minimum allotments, the standard deductions for households of one to three members, asset limits or income change reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to remain the same using The Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor and were submitted to and approved by USDA. An emergency rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d), which requires annual calculation of federal poverty levels, the standard deduction and standard utility allowances (SUAs).

Pursuant to 5 MRS §8054, the Department finds that emergency rulemaking is necessary for the health, safety, and general welfare in order to ensure that Food Supplement benefits are issued appropriately, accurately, and in a timely fashion consistent with federal law.

The United States Department of Agriculture (USDA) memoranda providing these figures were not provided in a timeframe that would allow the Department to comply with the non-emergency rulemaking process and still implement by the required date of October 1, 2020. Therefore, the Department finds that an emergency rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d), which requires annual calculation of federal poverty levels, the standard deduction and standard utility allowances (SUAs). Non-compliance could result in federal penalties or loss of federal funds.

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

EFFECTIVE DATE: October 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) .

OFI RULEMAKING LIAISON: [Dan.Cohen@Maine.gov](mailto:Dan.Cohen@Maine.gov) .

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

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

AGENCY: **15-215** - Maine Department of Defense, Veterans and Emergency Management (DVEM), **Bureau of Maine Veterans Services**

CHAPTER NUMBER AND TITLE: **Ch. 3** *(New)*, Administration of the Veteran’s Homelessness Prevention Coordination Program

ADOPTED RULE NUMBER: **2020-214**

CONCISE SUMMARY: The rule establishes the process to govern the administration of the recently-enacted Veterans Homeless Prevention Coordination Program pursuant to Title 37-B MRS §513-A. The program will provide funding for transitional housing to homeless veterans and coordinate efforts to remedy and prevent homelessness among veterans in the state. The rule also outlines the procedure for establishing collaborative agreements with human services-based volunteer organizations and sets forth the requirements and eligibility criteria for those providers, a reimbursement rate and billing schedule, and procedures to remedy any misuse of the funds. The rule also establishes administration guidelines, annual inspection requirements and the process for re-consideration of Bureau decisions denying reimbursement. Provider(s) will be required to submit monthly updates on assistance rendered under this program.

The rule provides a reimbursement rate ($50 a night) that closely follows the per diem rate that the U.S. Veterans Administration establishes for its homeless veterans’ program, pursuant to 38 USC §2012. Reimbursement would be made to organizations for up to 30 continuous nights to a veteran who is a resident of Maine and who meets the definition of a veteran as outlined in these rules.

The rule establishes eligibility for reimbursement to a human service-based volunteer organization on a case-by-case basis as authorized in Title 37-B MRS §513-A. The rule also outlines the procedure for establishing collaborative agreements and programs of partnerships with human services-based volunteer organizations and sets forth the requirements and eligibility criteria for providers, the reimbursement billing schedule, and procedures to remedy any misuse of the funds.

EFFECTIVE DATE: October 5, 2020

CONTACT PERSON FOR THIS FILING: Kevin Rousseau, Maine Bureau of Veterans Services, 117 State House Station, Augusta, Maine 04333. Telephone: (207) 430-6037. Fax: (207) 626-4471. TTY: (711) Maine Relay. Email: [Kevin.Rousseau@Maine.gov](mailto:Kevin.Rousseau@Maine.gov) .

BUREAU WEBSITE: <https://www.maine.gov/veterans> .

DVEM RULEMAKING LIAISON: [Scott.A.Young@Maine.gov](mailto:Scott.A.Young@Maine.gov) .

DVEM WEBSITE: <https://www.maine.gov/dvem/> .

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS)**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. III Section 5**, Ambulance Services

ADOPTED RULE NUMBER: **2020-215**

CONCISE SUMMARY: The Department adopts changes to Ch. III Section 5, “Ambulance Services”, to comply with PL 2019 ch. 530 part B, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health,* by increasing the MaineCare reimbursement rate for ambulance services to a level that is not less than the average allowable reimbursement rate under Medicare for such services and to reimburse for neonatal transport services under MaineCare at the average rate for critical care transport services under Medicare effective retroactive to January 1, 2020.

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

EFFECTIVE DATE: October 12, 2020

AGENCY CONTACT PERSON: Anne E. Labonte, Comprehensive Health Planner, Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4082. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: [Anne.Labonte@Maine.gov](mailto:Anne.Labonte@Maine.gov) .

OMS WEBSITE: <https://www.maine.gov/dhhs/oms> .

OMS RULEMAKING LIAISON: [Thomas.Leet@Maine.gov](mailto:Thomas.Leet@Maine.gov) .

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

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

CHAPTER NUMBER AND TITLE: **Ch. 36**, Atlantic Herring (Season 2 Opens)

ADOPTED RULE NUMBER: **2020-216** *(Emergency)*

CONCISE SUMMARY: The Days Out Commissioners have determined landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Three landing days have been designated, starting 6:00 p.m. Sunday October 11 through 6:00 p.m. Wednesday, October 14, 2020. Following week, two landing days have been designated, starting 6:00 p.m. Sunday October 18 through 6:00 p.m. Tuesday, October 20, 2020. Two landing days will remain effective until further notice. The Commissioner has determined that it is necessary to take emergency action to implement this harvest schedule 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: October 6, 2020

DMR CONTACT PERSON: Melissa Smith, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6558. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [Melissa.Smith@Maine.gov](mailto:Melissa.Smith@Maine.gov) .

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

DMR RULEMAKING LIAISON: [Deirdre.Gilbert@Maine.gov](mailto:Deirdre.Gilbert@Maine.gov) .