**State of Maine: Notice of Agency Rulemaking – December 23, 2020**

**PROPOSALS**

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 880**, Attachments to Joint-Use Utility Poles; Determination and Allocation of Costs; Procedure

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P238**

BRIEF SUMMARY: The Public Utilities Commission initiates a rulemaking to amend ch. 880 of the Commission's rules regarding attachments to joint use utility poles. Specifically, the Commission proposes to amend ch. 880 to implement "one-touch make ready" (OTMR) in Maine and, further, to incorporate into ch. 880 of procedures and policies regarding unused (or "abandoned") joint use utility poles in public rights-of way. In addition, the Commission closes the Inquiry in Docket No. 2020-00181.

PUBLIC HEARING: January 13, 2021, 1:30 p.m. *The Commission will conduct the hearing remotely via Microsoft Teams. Interested persons wishing to participate in the hearing by telephone may dial* ***(207) 209-4724*** *and enter conference ID* ***353 476 700#****. Interested persons wishing to participate in the hearing using video may contact the Presiding Officer by email at* [*Jordan.D.McColman@Maine.gov*](mailto:Jordan.D.McColman@Maine.gov) *for a link.*

COMMENT DEADLINE: January 29, 2021. Interested persons may file final written comments on the proposed rule in CMS, in Docket No. 2020-00281, no later than **Friday, January 29, 2021**. All comments will appear in CMS. Commenters should refer to Docket No. 2020-00281 when submitting comments. Interested persons may file reply comments on or before **Wednesday, January 6, 2021**.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Jody McColman, Maine Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1365.Email: [Jordan.D.McColman@Maine.gov](mailto:Jordan.D.McColman@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 35-A MRS §§ 111, 301, 711, 2524, 7903 and 8302

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

MPUC WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc) .

MPUC RULEMAKING LIAISON: [Jamie.A.Waterbury@Maine.gov](mailto:Jamie.A.Waterbury@Maine.gov) .

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 42**, Striped Bass: **42.01**, Statewide Striped Bass Size Restrictions, Harvest Methods

ADOPTED RULE NUMBER: **2020-248** *(Emergency)*

CONCISE SUMMARY: In order to come into compliance with the Atlantic States Marine Fisheries Commission’s Atlantic Striped Bass Interstate Fishery Management Plan, the Department is implementing regulatory changes to expand the required use of circle hooks in the recreational striped bass fishery. Specifically, this emergency rulemaking makes it unlawful to use any hook other than a circle hook when fishing for striped bass with bait. In doing so, this emergency rulemaking removes the exception that previously exempted those fishing for striped bass with baited latex and rubber tube rigs from having to use circle hooks. In addition to coming into compliance with the Fishery Management Plan, this regulation has the potential to have positive impacts on the stock by broadening the requirement to use circle hooks in the striped bass fishery and reducing discard mortality rates.

EFFECTIVE DATE: December 16, 2020

DMR CONTACT PERSON: Megan Ware (207-446-0932). Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Fax:(207) 624-6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: [Megan.Ware@Maine.gov](mailto: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](mailto:Deirdre.Gilbert@Maine.gov) .

AGENCY: **01-017** - Department of Agriculture, Conservation and Forestry (DACF), **Maine State Harness Racing Commission**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Tracks

ADOPTED RULE NUMBER: **2020-249**

CONCISE SUMMARY: On December 11, 2020 the Maine State Harness Racing Commission adopted amendments to ch. 5 which allow for flexibility in purse supplement distribution to the various tracks and removes a section related to the tracks submitting purse supplement assessments.

EFFECTIVE DATE: December 22, 2020

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Henry Jennings, Maine State Harness Racing Commission, 28 State House Station, Augusta, ME 04333-0028. Telephone: (207) 287-7568. Email: [Kenry.Jennings@Maine.gov](mailto:Kenry.Jennings@Maine.gov) .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program: **FS215A**, FFY 2021 Budgeting Figures: **Section FS 999-3**, Charts

ADOPTED RULE NUMBER: **2020-250**

CONCISE SUMMARY: A rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d). 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 (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (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. Non-compliance could result in federal penalties or loss of federal funds.

The Department implemented these changes on an emergency basis on October 1, 2020, most of which were effective October 1, 2020, in Rule No. FS215E. Changes that applied to 185% FPL were effective retroactive to January 14, 2020. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

Retroactive rulemaking is necessary to keep Maine’s policies in line with federal requirements, and is authorized under 22 MRS §42(8) as it benefits Food Supplement recipients and does not have an adverse financial impact on any provider, member, recipient or beneficiary.

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

EFFECTIVE DATE: December 30, 2020

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

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 202**, Child Protective Central Case Record Research Fee

ADOPTED RULE NUMBER: **2020-251**

CONCISE SUMMARY: The Department adopts this rule to change the fee charged for Child Protective Background Checks from $15.00 to $13.00. The current fee for a child protective background check is $15.00. The Department is in the process of developing an InforME portal for the processing of requests for these background checks. InforME charges a $2.00 per transaction service fee. To ensure there is no rate increase when the Department begins using InforME to receive and process requests for child protective background checks, the proposed rulemaking would reduce the fee to $13.00 to ensure the implementation of the InforME portal is revenue neutral for providers.

EFFECTIVE DATE: December 23, 2020

OCFS CONTACT PERSON: Debra White, Department of Health and Human Services - Office of Child and Family Services, 2 Anthony Avenue – 11 State House Station, Augusta, ME 04330. Telephone: (207) 624-7986. Email: [Debra.White@Maine.gov](mailto:Debra.White@Maine.gov) .

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

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

AGENCY: **02-313 - Maine Board of Dental Practice** *(Affiliated with the Department of Professional and Financial Regulation)*

CHAPTER NUMBER AND TITLE: **Ch. 7**, Establishment of Fees

ADOPTED RULE NUMBER: **2020-252**

CONCISE SUMMARY: This adopted rule amends the current rule as follows:

1) Increases initial licensure and renewal of licensure fees in the following categories:

a) Dentist, faculty dentist, and limited dentist; and

b) Moderate sedation permits, deep sedation/general anesthesia permit, and itinerant dentist permit.

EFFECTIVE DATE: December 26, 2020

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Penny Vaillancourt, Executive Director, Maine Board of Dental Practice, 143 State House Station, Augusta, ME 04333-0143. Telephone: (207) 287-3333. Email: [Penny.Vaillancourt@Maine.gov](mailto:Penny.Vaillancourt@Maine.gov).

BOARD WEBSITE: <https://www.maine.gov/dental/> .

AGENCY: **12-179** - Department of Labor (DOL), Bureau of Labor Standards (BLS), **Board of Occupational Safety and Health**

CHAPTER NUMBER AND TITLE: **Ch. 2**, Occupational Safety and Health Standards for General Industry Employment in the Public Sector

ADOPTED RULE NUMBER: **2020-253**

CONCISE SUMMARY: To update the rule to incorporate changes to the Federal Occupational Safety and Health Administration regulations, 29 CFR Part 1910, including modifications to silica and beryllium standards:

Compliance date of this final standard for beryllium is September 14, 2020. Latest compliance date for silica is June 23, 2020.

Beryllium: <https://www.osha.gov/sites/default/files/enforcement/directives/CPL_02-02-080.pdf> .

Silica: <https://www.osha.gov/sites/default/files/enforcement/directives/CPL_02-02-080.pdf> .

EFFECTIVE DATE: December 26, 2020

AGENCY CONTACT PERSON: Isaac.H.Gingras, Department of Labor, 54 State House Station, Augusta, ME 04333-0054. Telephone: (207) 626-6232. Email: [Isaac.H.Gingras@Maine.gov](mailto:Isaac.H.Gingras@Maine.gov) .

BLS WEBSITE: <https://www.maine.gov/labor/bls/> .

AGENCY: **18-125** - Department of Administrative & Financial Services, **Maine Revenue Services**

CHAPTER NUMBER AND TITLE: **Ch. 807**, “Residency”

ADOPTED RULE NUMBER: **2020-254**

CONCISE SUMMARY: The following changes to Rule 807 are being adopted:

The existing Rule 807 definition of “statutory resident” is replaced with a definition that references the statutory residency standard in 36 MRS §5102(5)(B). The definition of “permanent place of abode” is updated to provide that the residence must be maintained by the individual as a household for the entire tax year.

Section .07, “Resident and nonresident aliens,” is broken into two subsections. The current provisions, now located in subsection A, no longer apply to tax years beginning on or after January 1, 2020. The new provisions are located in subsection B and provide that, for tax years beginning on or after January 1, 2020, an individual’s Maine residency and Maine income tax are determined under Maine law, without regard to federal resident or nonresident alien status unless otherwise provided by Maine law.

Lastly, section .08, “Military personnel,” is updated to more accurately and completely reflect current federal law concerning the residency of a military spouse, including the federal election under 50 USC §4001(a)(2) available for tax years beginning on or after January 1, 2018. That federal election permits a military spouse to use the same residence as the service member for purposes of taxation regardless of the marriage date.

EFFECTIVE DATE: December 26, 2020

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Alex Weber, General Counsel, Department of Administrative & Financial Services, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: [Alexander.J.Weber@Maine.gov](mailto:Alexander.J.Weber@Maine.gov) .

AGENCY WEBSITE: <https://www.maine.gov/revenue/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 202**, Medical Board

ADOPTED RULE NUMBER: **2020-255**

CONCISE SUMMARY: This rule governs the establishment of the Medical Board of the Maine Public Employees Retirement System. The rule is being repealed and replaced to bring it current with laws and practices. The replacement rule also specifies that the Board can designate an entity whose medical-provider employees would make up the Medical Board.

EFFECTIVE DATE: December 26, 2020

MAINEPERS CONTACT PERSON / RULEMAKING LIAISON: Kathy J. Morin, 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](mailto:Kathy.Morin@MainePERS.org) .

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