**State of Maine: Notice of Agency Rulemaking – June 7, 2023**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **01-015** - Maine Department of Agriculture, Conservation and Forestry (DAFS), **Maine Milk Commission (MMC)**

CHAPTER NUMBER AND TITLE:**Ch. 61** *(New)*,Maine Milk Pool Cost of Administration

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P118**

BRIEF SUMMARY: The principal reason for this rule is to set the cost for administering the Maine Milk Pool. While it falls under the statutory jurisdiction of the Commissioner of the Department of Agriculture, Conservation and Forestry, the Milk Pool has historically been managed by the Maine Milk Commission on a fee-for-service basis.

Costs incurred by the Maine Milk Pool for personnel services and operational administration were approximately $65,000 in 2022. Using those figures as a guide, it is estimated that the Pool costs for will remain approximately the same in the immediate future.

The total pounds included in the Pool for calendar year 2022 were 550,151,781. Milk production estimated to be included in the Pool is likely to decline slightly in the coming year due to a decline in the number of farms and current limitations upon milk production per farm set by milk marketing co-operatives in the region. Maine’s dairy farmers are all feeling significant financial stress due to market pressures that are beyond their control on the farm.

Because any additional fees paid to the Commission would further reduce the amounts that the producers/farmers would receive from the Pool, thus exacerbating the financial stress on Maine farms, the Pool Administrator proposes to set the rate to administer the Maine Milk Pool for the calendar years 2023-2024 at $0.01 per hundredweight (100 lbs.) of milk. This represents no change from the previous years.

PUBLIC HEARING:June 27, 2023 at 10:00 a.m. in Room 229E, Deering Building, 90 Blossom Lane, Augusta, ME

COMMENT DEADLINE:July 7, 2023 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MMC RULEMAKING LIAISON: Julie-Marie Bickford, Maine Milk Commission, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: Julie-Marie.Bickford@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: <https://www.maine.gov/dacf/milkcommission/index.shtml>.

DACF WEBSITE: http://www.maine.gov/dacf/.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services** (Taxation)

CHAPTER NUMBER AND TITLE: **Ch. 325** *(New)*, Sales to Tribes, Tribal Members, and Tribal Entities

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P119**

BRIEF SUMMARY: This rule is being adopted to implement PL 2021 c. 681. This new rule would provide definitions, explanations, and examples of taxable and non-taxable transactions related to sales to Maine Indian tribes, tribal members, and tribal entities, including sales sourced to tribal lands. The rule would also address other potential sales and use tax issues related to such parties, including: requirements for qualifying as a “tribal entity”; sourcing complexities related to transactions and the use of property located within both tribal and non-tribal land; specific requirements for the sale of vehicles; and the treatment and reporting of sales to non-tribal members on tribal land.

PUBLIC HEARING: N/A

COMMENT DEADLINE: July 7, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112 & PL 2021 c. 681

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/).

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services** (Taxation)

CHAPTER NUMBER AND TITLE: **Ch. 803**, Income Tax Withholding Reports and Payments

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P120**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 803 ("Income Tax Withholding Reports and Payments") to reflect recently enacted legislation that provides for an income tax withholding exemption for enrolled tribal members residing on tribal land in Maine with income derived from or connected with sources on tribal land in Maine, an income tax withholding exemption for out-of-state supplier of spirits sold to the Bureau of Alcoholic Beverages and Lottery Operations (BABLO), and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: July 7, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112 & PL 2021 c. 681 Pt. H

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/).

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services** (Taxation)

CHAPTER NUMBER AND TITLE: **Ch. 825** *(New)*, Tribal Member Income from Sources on Tribal Land

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P121**

BRIEF SUMMARY: Maine Revenue Services is proposing to adopt Rule 825 ("Tribal Member Income from Sources on Tribal Land") to reflect recently enacted legislation that provides for income modifications for enrolled tribal members residing on tribal land in Maine with income derived from or connected with sources on tribal land in Maine.

PUBLIC HEARING: N/A

COMMENT DEADLINE: July 7, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112 & PL 2021 c. 681 Pt. H

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.maine.gov/revenue/](http://www.maine.gov/revenue/).

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 36**, Atlantic Herring: 2023 Season 1 Open

ADOPTED RULE NUMBER: **2023-078**

CONCISE SUMMARY: The Days Out Commissioners have set zero landing days for June 1 through July 16, 2023 at 6:00 pm. The Days Out Commissioners have set five landing days for Season 1 (Trimester 2; June 1 – September 30) of the Atlantic herring fishery, Sunday at 6:00 p.m. through Friday at 6:00 p.m., beginning on Sunday, July 16, 2023 at 6:00 p.m. The weekly landing limit for Atlantic Herring Limited Access Category A vessels is 320,000 pounds (or 8 trucks). Harvesters may not transfer herring to carrier vessels while at-sea. Carrier vessels may not receive herring from a harvester vessel while at-sea. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(C).

EFFECTIVE DATE: May 31, 2023

AGENCY 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: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

DMR WEBSITE: <https://www.maine.gov/dmr>.

DMR RULEMAKING LIAISON: Deirdre.Gilbert@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 600**, Oil Discharge Prevention and Pollution Control Rules for Marine Oil Terminals, Transportation Pipelines and Vessels

ADOPTED RULE NUMBER: **2023-079**

CONCISE SUMMARY: This rulemaking updates the existing rules to more current standards, improves the protectiveness of the rule, makes administrative changes, incorporates statutory changes, and includes climate change in the design, operation and planning of marine oil terminals.

EFFECTIVE DATE: June 6, 2023

DEP CONTACT PERSON: Stacy Ladner, Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017. Telephone: (207) 287-7688; (800) 452-1942. Email: Stacy.A.Ladner@Maine.gov.

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

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

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

CHAPTER NUMBERS AND TITLES:

**Ch. 37** *(New)*, Emergency Children’s Shelter, Shelter for Homeless Children, and Transitional Living Programs that are Children’s Homes Licensing Rule

**Ch. 8** *(Repeal)*, Rules for the Licensure of Shelters for Homeless Children (Repeal)

**Ch. 9** *(Repeal)*, Rules for the Licensing of Emergency Shelters for Children

ADOPTED RULE NUMBERS: **2023-080, 081, 082**

CONCISE SUMMARY: The Office of Child and Family Services is repealing 10-148 CMR Ch. 8, *Rules for the Licensure of Shelters for Homeless Children*, and 10-148 CMR Ch. 9, *Rules for the Licensing of Emergency Shelters for Children*, and is replacing with 10-148 .MR Ch. 37, *Emergency Children’s Shelter, Shelter for Homeless Children, and Transitional Living Programs that are Children’s Homes Licensing Rule*. Substantive changes include significantly updating, consolidating, reorganizing, and adding requirements to afford greater health and safety protection for youth receiving services. The rule includes requirements for Transitional Living Programs (TLP) that are Children’s Homes, which are currently licensed as Children’s Residential Care Facilities (CRCF). The rule meets the requirements of PL 2021 ch. 98 and complies with the *Family First Prevention Services Act* (FFPSA) requirements for comprehensive background checks.

Specific changes include: removing introduction from *Rules for the Licensing of Emergency Shelters for Children*; specifying exemptions or modifications applicable to specific program type throughout the rule; removing obsolete, outdated and unused terms from definitions; adding and clarifying definitions; removing outdated and unnecessary language; updating length of stay to 90 consecutive days instead of 30 consecutive days; changing the term children to youth throughout rule and specifying in definition that they have the same meaning; specifying staff members must be at least 21 years old; updating language to be gender inclusive throughout the rule; reorganizing and updating language regarding program administration and organization; removing requirement from *Rules for the Licensure of Shelters for Homeless Children* for the board of directors to conduct an annual evaluation on the director; adding language regarding the program administrator demonstrating an ability to manage affairs of facility; removing requirements for insurance/bonding; removing list of non-waivable items; clarifying requirements for licensure application; adding the requirement to comply with requests for records; alphabetizing, consolidating, and updating required policies; consolidating and clarifying records required; updating language regarding youth access to records; adding requirement to sign a statement regarding adult abuse and neglect; adding reporting requirements including requirement to report adult abuse and neglect; adding section for youth rights; adding requirement for release of information; removing requirement for policy in confidentiality; updating requirements for intake assessment; updating assessment and care plan language and completion timeframes; updating requirements for discharge summary completion; adding requirement to assess for human trafficking; adding requirement for at least one CPR-trained staff on duty 24 hours a day; updating language regarding first aid kits and adding requirement for a first aid kit in vehicles; adding safety precautions to medication administration including requirement to keep medication locked at all times, securing staff medications, and counting schedule II medications; updating medication administration section to allow for youth to self-administer and to be able to store youth medication as appropriate; removing isolation and restraint as approved practices; changing terminology of detrimental practices to prohibited practices; adding water testing requirements; updating and clarifying terminology regarding sleeping areas and bedding; updating language regarding supervision, modifying staff to youth ratios; clarifying requirements regarding youth attending religious services; adding requirements for searches to ensure safety of youth; updating language regarding food service and safety; removing requirement for Emergency Shelters to keep a menu; adding requirement for seatbelts and child safety seats; adding and updating requirement for emergency preparedness plan; adding requirement for continuity of operation plan; specifying requirements unique to each service type; specifying requirements for daily notes; specifying that certain items do not need to be locked in some transitional living programs; updating guardian notification requirements; adding health and safety requirements for transitional living programs serving pregnant and parenting youth; updating language regarding staff qualifications, judgement, and boundaries; specifying education requirements for program administrator and direct care workers; updating specific requirement for employee evaluations; adding requirements for comprehensive background checks and inclusion of specific disqualifying conditions aligning with *Family First Prevention Services Act*; adding additional background check requirements to include professional registries and Adult Protective Services; adding disqualifying driving offenses that prohibit a staff member from transporting youth; removing requirement for employee physical examination and TB test; removing medical statement required for staff prior to employment; adding staff trainings to include medication administration, professionalism and boundaries, sexual orientation and expression, cultural competency and diversity, effects of alcohol and drug use, impact of trauma on homeless youth, human trafficking, and active weapons; specifying trainings need to be completed annually; clarifying language regarding enforcement to reflect current practice; and adding requirement to notify guardians of current and prospective residents of licensing action.

EFFECTIVE DATE: June 14, 2023

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: Emily.A.Cathcart@Maine.gov.