**State of Maine: Notice of Agency Rulemaking – June 8, 2022**

**PROPOSALS**

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. II Section 65**, Behavioral Health Services

PROPOSED RULE NUMBER: **2022-P085**

CONCISE SUMMARY: The Department of Health and Human Services (the "Department") proposes the following changes to 10-144 CMR Ch. 101, *MaineCare Benefits Manual*, Ch. II Section 65, “Behavioral Health Services”.

The Department proposes this rule to incorporate various new Intensive Outpatient Program (IOP) Services to be covered in Ch. II, including Mental Health, Developmental Disabilities/Behavioral Health, Geriatric, Dialectical Behavior Therapy, and Eating Disorder (Level I and Level II) IOPs. The proposed rule updates Substance Use IOP requirements and establishes requirements for new IOP services to include: IOP service and staff requirements, general and specific member eligibility criteria, as well as program requirements.

To align with federal regulations under 42 CFR Part 8, the Department proposes to amend language in Ch. II and Ch. III referring to Medication Assisted Treatment with Methadone (MAT), to be replaced with the term Opioid Treatment Program (OTP) with Methadone. The proposed Ch. II rule also updates requirements for OTPs, under Section 65.05-11, to align with the federal regulation including Counseling, Substance Use Disorder Testing, Medication Administration, and Facility Operation requirements in 42 CFR §8.12.

To reduce barriers to services and administrative burden to providers, the Department proposes to extend the Crisis Resolution Services “treatment episode” under 65.05-1, from limiting the service to “six (6) face-to-face visits and related follow up phone calls over a thirty (30) day period after the first face-to-face visit,” to “face-to face visits and related follow up phone calls, as clinically indicated, up to a sixty-day period after the first face-to-face visit.” Additionally, the Department proposes to remove language from Section 65.07-5(B) that limits substance use individual and family outpatient therapy to three (3) hours per week, for thirty (30) weeks in a forty (40) week period.

The rule also proposes to clarify qualified staff allowed to provide Crisis Resolution Services (65.05-1) and Crisis Residential Services (65.05-2) to include Clinicians (as defined in 65.01-11), Mental Health Rehabilitation Technicians (MHRTs), Behavioral Health Professionals (BHPs), or Direct Support Professionals (DSPs) with Certification at the level appropriate for the services being delivered and specific to the population being served.

The Department has also updated provider qualifications for licensed Mental Health Agencies and Substance Use Agencies to remove the requirement that providers must separately contract with the Office of Child and Family Services and/or the Office of Behavioral Health.

The proposed rule reorganizes requirements related to Individualized Treatment Plans in 65.08-4(B) and proposes updated requirements for treatment plans for members receiving OTP services.

In addition, the Department is proposing rulemaking to Ch. III of Section 65, to meet all Ch. II-related rulemaking updates and related budget initiatives identified in PL 2021 Ch. 398. The Ch. III Section 65 rulemaking shall be filed simultaneously, so that the upcoming changes will be effective at the same time as the changes in Chapter II, Section 65 are finally adopted.

Throughout the rule, the Department proposes edits to language to make updates to formatting, citations, and references where necessary, including changes to address potentially stigmatizing language based on recommendations from the Maine opioid task force and legislation passed in 2018 to minimize stigma (P.L. 2017 Ch. 407).

The Department shall seek CMS approval for the new covered services and provider requirements, as specifically noted in various proposed rule changes.

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

PUBLIC HEARING: Tuesday, June 28th, 2022 - 1:00 p.m. *Due to the ongoing threat posed by COVID-19, DHHS has determined that its public hearing will be conducted solely remotely, via Zoom. This is in accordance with the DHHS Remote Rulemaking Hearings Policy issued September 10th, 2021.*

(Link to Remote Hearings Policy: <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf> )

Zoom Meeting link: <https://mainestate.zoom.us/j/85325347788> Meeting ID: 853 2534 7788

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*Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to participate in the hearing.*

DATE FILED WITH THE SECRETARY OF STATE’S OFFICE: Tuesday, May 31, 2022.

COMMENT DEADLINE: Comments must be received by 11:59 p.m. on July 8th, 2022.

OMS CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION: Melanie Miller, Comprehensive Health Planner II, MaineCare Services, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4087. Fax: (207) 287-1864. TTY: 711 (Deaf or Hard of Hearing). Email: Melanie.Miller@Maine.gov.

IMPACT ON MUNICIPALITIES OR COUNTIES: The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42, 3173; 42 CFR Part 8; PL 2019 Ch. 407; PL 2021 Ch. 398

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

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

OMS RULEMAKING LIAISON: Jennifer.Patterson@Maine.gov.

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

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

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 65**, Behavioral Health Services

PROPOSED RULE NUMBER: **2022-P086**

CONCISE SUMMARY: The Department of Health and Human Services (the “Department”) is proposing to repeal and replace 10-144 CMR Ch. 101, *MaineCare Benefits Manual*, Ch. III Section 65, “Behavioral Health Services”.

The Department proposes this rule to comply with PL 2021 Ch. 398, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023*(the “Budget”). Per the Budget, the rule proposes to increase medication management rates. This provision will be effective retroactive to October 1, 2021, as directed by the Supplemental Budget, and in alignment with 22 MRS §42(8) which authorizes the Department to adopt retroactive rules that do not have any adverse financial impact on any MaineCare provider or member. Additionally, pursuant to Legislative directive and funding, the rule will incorporate updates to Ch. III from an independent rate study recommending increases to rates for Substance Use Disorder Intensive Outpatient Program (IOP) services. This provision will be effective retroactive to January 1, 2022, pursuant to 22 MRS §42(8). Also, pursuant to Legislative directive and funding, from the Budget as well as PL 2021 Ch. 635 (the “Supplemental Budget”), the rule proposes to include cost-of-living adjustments (COLAs) for services that have not received a rate adjustment in the prior 12 months, according to appropriate criteria for calculating COLAs. This provision will be effective retroactive to July 1, 2022 pursuant to 22 MRS §42(8).

The Department is pursuing a separate rulemaking for Ch. II Section 65, simultaneous with this proposed rule. The proposed changes in Ch. II include the addition of various new IOP Services including Mental Health, Developmental Disabilities/Behavioral Health, Geriatric, Dialectical Behavior Therapy, and Eating Disorder (Level I and Level II) IOPs. This Ch. III rulemaking will incorporate proposed rates from an independent rate study for the new IOP Services pursuant to Legislative directive and funding (PL 2021 Ch. 398).

Throughout the rule, the Department proposes language consistent with the proposed Ch. II rule to address potentially stigmatizing language based on recommendations from the Maine opioid task force and legislation passed in 2018 to minimize stigma (PL 2017 Ch. 407).

The Department shall seek CMS approval for the new covered services and rates, as specifically noted in various proposed rule changes.

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

PUBLIC HEARING: Tuesday, June 28th, 2022; 3:00 p.m. *Due to the ongoing threat posed by COVID-19, DHHS has determined that its public hearing will be conducted solely remotely, via Zoom. This is in accordance with the DHHS Remote Rulemaking Hearings Policy issued September 10th, 2021.*

(Link to Remote Hearings Policy: <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf> )

Zoom Meeting link: <https://mainestate.zoom.us/j/87144359805> Meeting ID: 871 4435 9805

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*Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to participate in the hearing contact the person listed for this filing 5 days in advance of the hearing.*

DATE FILED WITH THE SECRETARY OF STATE’S OFFICE: Tuesday, May 31, 2022.

COMMENT DEADLINE: Comments must be received by 11:59 p.m. on July 8th, 2022.

OMS CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION: Melanie Miller, Comprehensive Health Planner II, MaineCare Services, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4087. Fax: (207) 287-1864. TTY: 711 (Deaf or Hard of Hearing). Email: Melanie.Miller@Maine.gov.

IMPACT ON MUNICIPALITIES OR COUNTIES: The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42, 3173; 42 CFR Part 8; PL 2019 Ch. 407; PL 2021 Ch. 398; PL 2021 Ch. 635.

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

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

OMS RULEMAKING LIAISON: Jennifer.Patterson@Maine.gov.

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

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

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

CHAPTER NUMBER AND RULE TITLE: **Ch. 323**; Maine General Assistance Manual, Sections: II, IV, V, and VI: **Rule GA24**, Recovery Residences

PROPOSED RULE NUMBER: **2022-P087**

BRIEF SUMMARY: PL 2021 Ch. 472 sets requirements and limits on municipalities related to the use of housing assistance for individuals living in Recovery Residences. The chapter further required the Department to establish in this manual appropriate maximum housing assistance levels for said individuals. Based on a survey of actual expenses for Recovery Residences, the Department has set this level at 75% of the one-bedroom allowance. This rulemaking proposes to comply with those requirements by: making edits to the definitions of “Household” and “Pooling of Income” and the addition of a definition of “Recovery Residence” in Section II, adding Subsection O to Section IV, adding Paragraph 4 to Section V(D), and making edits to Section VI(B)(3)(b)(ii).

Consistent with PL 2021 Ch. 472, the changes listed above are to be applied retroactively to July 1, 2022. Retroactive rulemaking is permitted under 22 MRS §42(8). None of the changes below would be applied retroactively.

The Department regularly reviews rules for clarity and accessibility. Throughout these sections, modifications would be made to use gender neutral language. Uses of similar terms (such as “individual”, “applicant”, and “recipient”) were reviewed and changes proposed to provide clarity and specificity. Language would be modernized. E.g., references to “Food Supplement” would be updated to “SNAP”. Citations were reviewed and would be updated for accuracy, specificity, and consistency of format. The enumeration of some subsections, paragraphs, etc. would be updated for clarity and ease of reference.

Within Section II, the following modifications are proposed to enhance the clarity of the chapter. The definition of “available resources” would be modified to more explicitly distinguish them from potential resources. A definition of “Department of Health and Human Services” would be added to clarify that uses of this term, “DHHS”, and “The Department” throughout the manual are references to the Maine Department of Health and Human Services. Definitions of “earned income” and “unearned income” would be added to specify what income fits each category and that all income fits one of these categories. Clarification would be added to the definition of “eligible person” to specify that the 24-month limit applies only to those pursuing a lawful process to apply for immigration relief. The definitions of “Family Development Accounts” and “household” would be simplified to avoid discrepancies as the statutory definitions are updated. The definition of “federal poverty level” would be removed as that term is no longer used in this chapter. The definition of “homelessness” would be modified to include individuals who do not have a permanent residence upon exiting an institution. The definition of “misspent income” would be moved from Section IV to Section II for consistency and ease of reference. A definition of “rehabilitation facility” would be added to help distinguish between this type of facility and a recovery residence. The definition of “Resident” would be clarified to include individuals who intend to keep a particular town as their permanent residence even if they are temporarily absent. A definition of “Supplemental Nutrition Assistance Program” would be added.

Within Section IV the following modifications are proposed to enhance clarity. Subsection A(2) would be modified to clarify that recipients are not required to reapply every 30 days unless they are seeking further assistance. In Subsection B reiterations of definitions provided in Section II would be removed for brevity and to avoid potential future conflicts. In Subsection F, reiterative language would be removed. Furthermore, in light of current health insurance laws and regulations, Paragraph 1(b) would be modified to acknowledge that all employer offered health and dental insurances are considered cost effective for the purposes of General Assistance budgeting. Additionally, Paragraph 2(b) would have language added clarifying that each municipality sets their mileage rate cap. Language would be added to Subsection H Paragraph 4 (parallel to the language used in the preceding paragraphs) to spell out that it addresses the verification of expenses. Language would be added to Subsection I(6)(b)(i) specifying that the greater of the state or federal minimum wage would be used in the calculation of the value of workfare hours (consistent with Subsection L(4)). Subsection J(1) would be broken into two paragraphs to more clearly articulate the financial responsibilities of parents and spouses as it relates to General Assistance budgeting. Subsection K was modified to clarify that a minor does not need to be pregnant or a parent to be eligible. Subsection L(5) would be reworded to use language more consistent with the rest of the section and more immediately state the circumstances under which this paragraph would apply. Furthermore, Paragraph 13 would have language added specifying that piece work standards are set by employers and that General Assistance administrators will adopt good cause determinations made by the Department of Labor, not apply their standards. Subsection M would be amended to clarify that Emergency General Assistance is a subset of General Assistance, not a separate benefit. Furthermore, the start date of 120-day disqualification period in Paragraph 3(b) would be clarified to the date of the disqualification determination. Additionally, Paragraph 4 would be amended to specify that the disqualification would only apply to a member of a recipient household. Paragraph 5 would, also, be amended to specify that the process to appeal a decision is by requesting a fair hearing.

Section VI(B)(5) would be amended to cover all applicants experiencing homelessness.

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

PUBLIC HEARING: Thursday, June 30, 2022, at 1:00 p.m. *DHHS is committed to maintaining essential functions while protecting the health and safety of employees, clients, and the public. If public hearings for rules are held in person, which are indoor gatherings that may not allow for physical distancing, there is a reasonable chance that individuals’ health and safety may be compromised. To avoid the threat to public health and safety, DHHS finds that it is necessary to conduct all rulemaking public hearings per 5 MRS §8053 solely remotely. (See the policy at* [*https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf*](https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf)*). This hearing will be conducted virtually. Anyone wishing to attend should join the Microsoft Teams meeting accessible at* [*https://teams.microsoft.com/l/meetup-join/19%3ameeting\_OGVkMGIxZjQtNjBlMi00MWZiLWIyZDItN2FjNjkxYjY5YTA3%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22f89346ba-710d-4ff8-8766-4d52c4172faf%22%7d*](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_OGVkMGIxZjQtNjBlMi00MWZiLWIyZDItN2FjNjkxYjY5YTA3%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22f89346ba-710d-4ff8-8766-4d52c4172faf%22%7d) *or by calling (207) 209-4724 and entering Conference ID: 971 329 556#.*

*The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Thursday, June 23, 2022.*

COMMENT DEADLINE: Monday, July 11, 2022, at 5:00 p.m.. Written public comments may be submitted via the link at <https://www.maine.gov/DHHS/OFI/about-us/rules/proposed>.

CONTACT PERSON FOR THIS FILING: Sara Denson, General Assistance 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) 624-4193. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Sara.Denson@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: Changes to rent reimbursement for residents of Recovery Residences is estimated to cost an additional $36,000 annually. The State General Fund will pay $25,200 of that expense. The remaining $10,800 will be incurred by municipalities administering the GA program. The full amount will be seen as income for local small businesses and non-profit organizations.

STATUTORY AUTHORITY: 22 MRS §§ 42(1), (8), 1161; PL 2021 Ch. 472 §4

OFI RULES WEBSITE: <https://www.maine.gov/dhhs/ofi/rules/index.shtml>.

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: **10-144** - Department of Health and Human Services (DHHS), **Center for Disease Control and Prevention (MaineCDC)**

CHAPTER NUMBER AND TITLE: **Ch. 220**, Radiation Protection Rule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P088**

BRIEF SUMMARY: This rule applies to all persons who receive, possess, use, transfer, own or acquire any source of radiation to protect the health, safety and welfare of the people of Maine, in order to institute and maintain a regulatory program for sources of ionizing radiation and align with federal standards and regulatory programs. This rule establishes an integrated effective system of regulation within Maine, which maintains similar radiation standards in other states. These proposed changes, specifically in Parts A, C, D, E, F, G, H, N and S of the rule, correct errors/omissions and clarify current requirements identified by the federal Nuclear Regulatory Commission as necessary to maintain compatibility with federal regulations. These proposed changes will clarify references and omissions in the earlier adopted rule.

A list of specific proposed rule changes is available at the Maine CDC Rulemaking site: <https://www.maine.gov/dhhs/mecdc/rules/maine-cdc-rules.shtml#anchor3883745>.

DATE, TIME AND PLACE OF PUBLIC HEARING: 30-day comment period, no hearing scheduled.

COMMENT DEADLINE: July 8, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Andrew Hardy, DHHS, 286 Water Street - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-4490. Fax: (207) 287-2887. TTY: Call 711 (Maine Relay). Email: Andrew.Hardy@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No anticipated impact

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS Ch. 160 - *Radiation Protection Act*

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

MAINECDC RULES WEBSITE: <https://www.maine.gov/dhhs/mecdc/rules/maine-cdc-rules.shtml>.

MAINECDC WEBSITE: <https://www.maine.gov/dhhs/mecdc/>.

MAINECDC RULEMAKING LIAISON: Tera.Pare@Maine.gov.

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

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

**ADOPTIONS**

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.10**, Wild Turkey Hunting (Fall Season)

ADOPTED RULE NUMBER: **2022-102**

CONCISE SUMMARY: The Department of Inland Fisheries and Wildlife has amended wild turkey hunting rules to allow harvest during the fall season in Wildlife Management Districts (WMDs) 7, 8 and 14. These WMDs are now open during the fall turkey season with a bag limit of one turkey of either sex. All other rules for fall wild turkey hunting will apply. A copy of the rule can be requested from the Agency Contact Person.

EFFECTIVE DATE: June 5, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202, Email: Becky.Orff@Maine.gov.

IFW WEBSITE: <https://www.maine.gov/ifw/>.

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.11**, Migratory Game Bird Hunting

ADOPTED RULE NUMBER: **2022-103**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has amended Ch. 16.11 rules pertaining to season dates and bag limits for the hunting of ducks, geese and other migratory game birds. The rules will protect migratory game birds from over-harvest by setting these limitations. The rule is similar to the previous year’s final season framework, however, upon recommendation from the Atlantic Flyway Council, the special sea duck season was eliminated by the USFWS, placing sea duck harvest within the regular duck season and part of the overall 6 duck daily bag limit. Although the special sea duck season was eliminated, the Sea Duck Hunting Area remains in place to allow for the shooting of crippled waterfowl under power, allowed in the USFWS Federal Register and is defined as all coastal waters and waters of rivers and streams seaward from the first upstream bridge. Also of note, the restriction of 2 hooded mergansers was lifted, following determination by Atlantic Flyway biologists that hooded merganser harvest is low and the population can sustain an increase to a 5-duck per day limit. The USFWS Service Regulations Committee approved this option for all Atlantic Flyway States. Please contact the agency contact person for a complete copy of the rule.

EFFECTIVE DATE: June 5, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202, Email: Becky.Orff@Maine.gov.

IFW WEBSITE: <https://www.maine.gov/ifw/>.

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 28**, Educational Trip Leader Rules

ADOPTED RULE NUMBER: **2022-104**

CONCISE SUMMARY:In accordance with [Public Law Chapter 162](http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1089&item=4&snum=130) (LD 1474) the Commissioner of Inland Fisheries and Wildlife has adopted new rule Ch. 28 to create an Educational Trip Leader Permit program within the Department which will allow staff and students from public and private schools and postsecondary educational institutions to conduct, without a guide license, paddling and primitive camping trips for students and adults associated with those institutions. A complete copy of the new rule may be requested by contacting the Agency Contact Person.

EFFECTIVE DATE: June 5, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202, Email: Becky.Orff@Maine.gov.

IFW WEBSITE: <https://www.maine.gov/ifw/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 36**, Atlantic Herring: 2022 Season 1 Open

ADOPTED RULE NUMBER: **2022-105** *(Emergency)*

CONCISE SUMMARY: The Days Out Commissioners have set zero landing days for June 1 through July 10, 2022 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 10, 2022 at 6:00 p.m. The weekly landing limit for Atlantic Herring Limited Access Category A vessels is 240,000 pounds (or 6 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, 2022

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 41**, Menhaden: Modified 2022-State Allocation Harvest Schedule

ADOPTED RULE NUMBER: **2022-106** *(Emergency)*

CONCISE SUMMARY: Under the Interstate Fishery Management Plan (ISFMP) for Atlantic menhaden, Maine is allocated 0.52% of the coastwide Total Allowable Catch (TAC). For the 2022 fishing year, this base allocation for the state directed fishery is 2,194,080 pounds. In previous seasons, Maine has reduced harvest opportunity through either landing days or trip limits to minimize the risk of incurring an overage within the state directed fishery. With the anticipation of additional effort for the 2020 fishing season, it is necessary to reduce open harvest days for the state directed fishery to only Mondays and Thursdays to ensure effective monitoring of the State’s available quota.

The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota. The Commissioner hereby adopts this emergency regulation as authorized by 12 MRS §6171(3)(A).

EFFECTIVE DATE: May 31, 2022

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