**State of Maine: Notice of Agency Rulemaking – August 31, 2022**

**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: **28-248 - Office of the State Treasurer**

CHAPTER NUMBER AND TITLE: **Ch. 104**, Certain Payments Made Not Immediate

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P083** *(2nd publication)*

**BRIEF SUMMARY**: The purpose of this rule is to establish procedures for a department or agency to accept payments using automated procedures, electronic processes and computer driven technology that is not immediately deposited into the State Treasury. Pursuant to 5 MRS §131, as enacted by HP 1482 – LD 1995, the Treasurer of State and the State Controller shall adopt rules.

**DETAILED SUMMARY:** The purpose of this rule is to establish procedures for a department or agency to accept payments using automated procedures, electronic processes and computer driven technology that is not immediately deposited into the State Treasury. Pursuant to 5 MRS §131, as enacted by HP 1482 – LD 1995, the Treasurer of State and the State Controller shall adopt rules.

**I. General.** In accordance with the Act, the Treasurer of the State and the State Controller have established the rules and regulations set forth in sections I to VIII, inclusive, governing the procedures to accept payments using automated procedures, electronic processes and computer driven technology that is not immediately deposited into the State Treasury.

**II. Definitions.** As used in sections I through VII, inclusive, unless the context otherwise requires, the words and terms defined in this section, have the meanings ascribed to them below.

A. State. “State” means the State of Maine.

B. 3rd Party Payment Processor. “3rd Party Payment Processor” means a financial service provider who accepts and transmits payment from a consumer to the State.

**III. Duties of a Department or Agency.**

A. Department or Agency seeking to contract with a 3rd Party Payment Processor must use the State’s procurement process to issue a request for proposal (RFP) to select a vendor.

B. Must report to the State Controller and Treasurer of State the winner of the RFP for final approval. The Treasurer of State has the authority to deny the use of a selected winner.

C. Must have ability to review current balances of accounts held with vendor.

**IV. Duties and Powers of the Treasurer of State.**

A. The Treasurer of State or designee shall review all proposed 3rd Party Payment Processors and provide approval or denial for each request.

B. Track all approved vendors

C. Must have ability to review current balances of accounts held with each vendor.

**V. Duties and Powers of the State Controller.** The State Controller or designee shall review all proposed vendors and make a recommendation to the State Treasurer to approve or deny as a 3rd Party Payment Processor.

**VI. Prohibitions against deductions.** Nothing in these rules waive prohibitions against deductions on account of salaries, fees, costs, charges, expenses, refunds, claims or demands of any description what so ever.

**VII. Requirements for a 3rd Party Payment Processor.**

A. The State shall not be held liable for funds collected until funds have been received by the State in its primary deposit account.

B. Funds shall be deposited into the State Treasury within 3 business days of initial payment.

C. Must make payee aware that funds will not be immediately deposited into the State Treasury.

**VIII. Accounts Not Insured by or Obligation of the State.** Accounts are not insured by the State and any principal contributed and any investment return in an account is not guaranteed by the State. Sections I to VII, inclusive, may not be construed to create any obligation of the Treasurer of State, the State or any agency or instrumentality of the State, to guarantee for the benefit of any account owner or designated beneficiary the return of principal, any rate of interest or any payment of interest or other return on any account.

**PUBLIC HEARING**: N/A

COMMENT DEADLINE: October 1, 2022

CONTACT PERSON FOR THIS FILING / RULEMAKING LIAISON: Gregory Olson, Office of the State Treasurer, 39 State House Station, Augusta, ME 04333. (207) 624-6477. (207) 287-2367, Maine Relay 711. Email: Gregory.Olson@Maine.gov.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY: 5 MRS §131

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

AGENCY: **19-100 - Department of Economic and Community Development (DECD)**

CHAPTER NUMBER AND TITLE: **Ch. 400**, Employment Tax Increment Financing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P162**

BRIEF SUMMARY: The proposed rule change brings the rule in line with changes to the Employment Tax Increment Financing (ETIF) statute enacted by PL 2021 c. 602 (LD 1156). ETIF payments will now be based on a fixed percentage of qualified employees’ gross wages instead of state income tax withholdings. The rule changes also correct certain phrases and dates for consistency.

PUBLIC HEARING: None

COMMENT DEADLINE: October 7, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Phoenix McLaughlin, DECD, 59 State House Station, Augusta, ME 04333. Telephone: (207) 624-9813. Email: Phoenix.McLaughlin@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 36 §6759

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:

DECD WEBSITE: [www.maine.gov/decd](http://www.maine.gov/decd).

DECD RULEMAKING LIAISON: Ben.Goodman@Maine.gov.

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 323**, Maine General Assistance Manual: **General Assistance Rule #24A**, Recovery Residences

ADOPTED RULE NUMBER: **2022-157**

CONCISE 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 complies with those requirements by making edits to the definitions of “Household” and “Pooling of Income” and the adding 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 are being applied retroactively.

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

Within Section II, the following modifications are being made to enhance the clarity of the chapter. The definition of “available resources” is modified to more explicitly distinguish them from potential resources. A definition of “Department of Health and Human Services” is 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” are added to specify what income fits each category and that all income fits one of these categories. Clarification is 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” is simplified to avoid discrepancies as the statutory definitions are updated. The Department is removing the definition of “federal poverty level” as that term is no longer used in this chapter. The definition of “homelessness” is modified to include individuals who do not have a permanent residence upon exiting an institution. The Department is moving the definition of “misspent income” from Section IV to Section II for consistency and ease of reference. A definition of “rehabilitation facility” is added to help distinguish between this type of facility and a recovery residence. The definition of “Resident” is 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” is added.

Within Section IV the following modifications are being made to enhance clarity. Subsection A(2) is modified to clarify that recipients are not required to reapply every 30 days unless they are seeking further assistance. The Department is removing from Subsection B reiterations of definitions provided in Section II for brevity and to avoid potential future conflicts. In Subsection F, reiterative language is being removed. Furthermore, in light of current health insurance laws and regulations, Paragraph 1(b) is 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) has additional language clarifying that each municipality sets their mileage rate cap. Language is 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 is added to Subsection I(6)(b)(i) specifying that the greater of the state or federal minimum wage is used in the calculation of the value of workfare hours (consistent with Subsection L(4)). Subsection J(1) is broken into two paragraphs to more clearly articulate the financial responsibilities of parents and spouses as it relates to General Assistance budgeting. Subsection K is modified to clarify that a minor does not need to be pregnant or a parent to be eligible. Subsection L(5) is reworded to use language more consistent with the rest of the section and more immediately state the circumstances under which this paragraph applies. Furthermore, language is added to Paragraph 13 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 is 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) is clarified to the date of the disqualification determination. Additionally, Paragraph 4 is amended to specify that the disqualification only applies to a member of a recipient household. Paragraph 5 is, also, amended to specify that the process to appeal a decision is by requesting a fair hearing.

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

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

EFFECTIVE DATE: September 1, 2022

OFI CONTACT PERSON: 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.

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

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov.

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 320**, Electric Transmission and Distribution Utility Service Standards

ADOPTED RULE NUMBER: **2022-158**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to the Commission’s *Electric Transmission and Distribution Utility Service Standards* Rule (Ch. 320). The amendments include substantial modifications to better measure and motivate improved performance in the areas of service quality and customer service, as well as for other aspects of investor-owned transmission and distribution (T&D) utilities’ performance. The amended rule also complies with recently enacted legislation that provides for minimum service standards and a “report card” for T&D utilities.

EFFECTIVE DATE: August 27, 2022

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie Waterbury, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov.

MPUC WEBSITE: <https://www.maine.gov/mpuc/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 850** (*formerly* Ch. 85), Regulatory Proceeding Expenses

ADOPTED RULE NUMBER: **2022-159**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to its *Regulatory Proceeding Expenses* rule (Ch. 850). The adopted amendments update the rule to be more in accordance with recent Commission practice and include a change to the way regulatory proceeding expenses are determined and calculated for inclusion in rates.

EFFECTIVE DATE: August 27, 2022

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie Waterbury, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov.

MPUC WEBSITE: <https://www.maine.gov/mpuc/>.

AGENCY: **02-280** - Department of Professional and Financial Regulation z(PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Accountancy**

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, Definitions *(Amend)*

**Ch. 6**, Firm License Requirements *(Repeal and replace)*

ADOPTED RULE NUMBERS: **2022-160, 161**

CONCISE SUMMARY: The rule repeals and replaces the current Ch. 6 of Board rules to more accurately describe the peer review process that certain firms are required to successfully participate in as a condition to the granting or renewal of licenses pursuant to 32 MRS §12252(8). The changes substantially conform the Board’s rules with the *Uniform Accountancy Act* rules regarding peer review and approve the American Institute of Certified Public Accountants (“AICPA”), along with its peer review program and standards, as a sponsoring organization. This approval also applies to the New England Peer Review (“NEPR”) as an administering entity of the AICPA Peer Review Program. The rule changes the Board’s process for tracking a firm’s successful completion of a peer review.

The rule amends the Board’s Ch. 1, *Definitions*, to more accurately reflect the terminology used throughout the rules; specifically, to add terms used to describe the administration of firm peer reviews in Ch. 6.

EFFECTIVE DATE: August 31, 2022

AGENCY CONTACT PERSON: Matthew Kaply, Regulatory Board Manager, Department of Professional and Financial Regulation - Office of Professional and Occupational Regulation, Board of Accountancy, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Matthew.S.Kaply@Maine.gov.

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/accountancy>.

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE: **Ch. 13**, Exclusion

ADOPTED RULE NUMBER: **2022-162**

CONCISE SUMMARY: The rule package adds the requirement for a reinstatement interview with a problem gambling service agency approved by the Board.

EFFECTIVE DATE: August 29, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Milton Champion, Gambling Control Board, 45 Commerce Blvd. – 87 State House Station, Augusta. Maine 04333. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov.

BOARD WEBSITE: <https://www.maine.gov/dps/gamb-control/index.html>.

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

CHAPTER NUMBER AND TITLE: **Ch. 34**, Groundfish Regulations: **34.06** (Emergency Rulemaking to Adjust Recreational Groundfish Measures for Cod and Haddock)

ADOPTED RULE NUMBER: **2022-163** *(Emergency)*

CONCISE SUMMARY: In order to be consistent with the NOAA Fisheries federal rulemaking, the Department is implementing regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. The bag limit for Gulf of Maine haddock is increased to 20 fish, with the fishing season and minimum size remaining unchanged. The season for Gulf of Maine cod is expanded such that cod may be possessed on board charter, party, or recreational fishing vessels from April 1-14, inclusive, and from September 1 – October 7, inclusive. The minimum size for Gulf of Maine cod is also increased to 22 inches, and there is no change to the 1-fish bag limit. This action ensures compliance with the federal fishery management plan. It also expands recreational fishing opportunities for these species in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish measures for Gulf of Maine cod and haddock in accordance with 12 MRS §6171(3)(C).

EFFECTIVE DATE: September 1, 2022

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Amanda.Ellis@Maine.gov.

DMR RULEMKING 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 (2022 Commercial Fishery Closed)

ADOPTED RULE NUMBER: **2022-164** *(Emergency)*

CONCISE SUMMARY: Under the Interstate Fishery Management Plan (ISFMP) for Atlantic menhaden, Maine is allocated roughly 2.2 million pounds, but has typically landed over 20 million pounds through the combination of state allocated quota, Episodic Event Set Aside quota (EESA), transfers of quota from other states along and landings via the incidental catch and small scale fishery (ICSSF) provision. In 2022, Maine has landed 170% more pounds of menhaden under the ICSSF than in 2021 due in part to increased participants. For FY2021, total landings of menhaden (including landings under the ICSSF provision) exceeded the Total Allowable Catch (TAC) of 194,400 mt set for menhaden. Additional commercial landings of menhaden jeopardizes the TAC set for FY2022.

The Commissioner has determined that it is necessary to take emergency action to end the commercial fishing season 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: August 28, 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.

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