**State of Maine: Notice of Agency Rulemaking – February 8, 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: **01-669** - Department of Agriculture Conservation and Forestry (DACF), **Bureau of Forestry - Division of Forest Health and Monitoring**

CHAPTER NUMBER AND TITLE: **Ch. 35**, Browntail Moth Mitigation Fund

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P200** *(2nd publication)*

BRIEF SUMMARY: This rule would establish standards for the administration of the Browntail Moth Mitigation Fund by the Bureau of Forestry. The Fund was created to provide funding to government entities or nonprofit organizations to support the mitigation of browntail moth in areas of Maine with significant populations. The draft rule includes details the types of organizations that can apply for funds, the application process, the types of activities that could be funded and how funds will be disbursed. More information is available at [www.maine.gov/dacf/knockoutbtm](http://www.maine.gov/dacf/knockoutbtm).

**DETAILED SUMMARY**: This rule would establish standards for the administration of the Browntail Moth Mitigation Fund by the Bureau of Forestry. The Fund was created to provide funding to government entities or nonprofit organizations to support the mitigation of brown tail moth in areas of Maine with significant populations. The draft rule includes details the types of organizations that can apply for funds, the application process, the types of activities that could be funded and how funds will be disbursed. More information is available at [www.maine.gov/dacf/knockoutbtm](http://www.maine.gov/dacf/knockoutbtm).

Government entities and Nonprofit Organizations engaged in or wishing to engage in activities to reduce the impacts from Browntail Moth in areas of Maine with significant Browntail Moth populations are eligible to apply for mitigation funds.

The Division will identify areas with significant populations of Browntail Moth through surveys conducted the previous winter and summer. A listing of eligible areas will be posted on the Division website by December of each year. Upon request by an applicant, the Division, in its sole discretion, may decide to add additional areas to the Division's list of eligible areas.

Eligible activities are those activities that may help reduce the impacts of browntail moth including, but not limited to, activities that support or implement:

1. Physical controls such as removal and destruction of overwintering webs,

2. Pesticide treatments,

3. Cultural controls such as taking actions to limit exposure, reduce habitat or attraction, and

4. Education.

A grant review committee including at minimum an integrated pest management expert, a resource administrator, and a forest entomologist will review applications based on criteria outlined in the Division request for applications and will award full, partial, or no funding for each submitted proposal.

**PUBLIC HEARING**: N/A

2nd COMMENT DEADLINE: Noon, March 10, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Allison Kanoti, Maine Forest Service, 87 Airport Road, Old Town, ME 04468. Telephone: (207) 827- 1813. Fax: (207) 287-2400. TTY: Maine Relay 711. Email: Allison.M.Kanoti@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No cost incurrence required. A total of $150,000 has been allocated to be distributed for browntail moth mitigation. Municipalities or Counties may choose to apply for funding, which could result in costs related to staff time.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §8321

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

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

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 4**, Rule Regarding the Housing Opportunity Program Grants

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P022**

BRIEF SUMMARY: PL 2021 Ch. 635 Pt. U established the Housing Opportunity Program to encourage and support the development of additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The Housing Opportunity Program Grants are grants to service providers to support municipal ordinance development, planning services and policy amendments to support increased housing development. The purpose of the rule is to define the criteria and proposal process for applications for grant funding.  The Department will solicit applications for grants through a competitive application process.

PUBLIC HEARING: None

COMMENT DEADLINE: Monday, March 13, 2023, 5 p.m.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT INFORMATION: Benjamin Averill, Housing Opportunity Program Coordinator, Department of Economic & Community Development, 111 Sewall Street - 3rd Floor (59 State House Station). Augusta, ME  04333. Telephone: (207) 441-9831. Email: Housing.DECD@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The Department was allocated funds to provide grant funding to service providers to support municipal ordinance development and community housing priorities.

STATUTORY AUTHORITY FOR THIS RULE: PL 2021 Ch. 635 Part U codified at 5 MRS §13056-J(4)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

DECD RULEMAKING LIAISON: Denise.Garland@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 5**, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P023**

BRIEF SUMMARY: This new proposed rule sets forth provisions which require municipalities to create or amend local ordinances in accordance with PL 2021 ch. 672. PL 2021 ch. 672 requires municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for housing; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where housing is permitted. PL 2021 also directs the Department to adopt rules to administer certain sections of the law.

PUBLIC HEARING: Wednesday, March 1, 2023, at 1 p.m. *This public hearing will be held by Zoom. To register and receive the Zoom link, please use this link:* [*https://mainestate.zoom.us/meeting/register/tZEqf-2srjMqEtCNTOPsCq4\_Buoc7dRGTvVK*](https://mainestate.zoom.us/meeting/register/tZEqf-2srjMqEtCNTOPsCq4_Buoc7dRGTvVK).

COMMENT DEADLINE: Monday, March 13, 2023, 5 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Benjamin Averill, Housing Opportunity Program Coordinator, Department of Economic and Community Development, 111 Sewall Street - 3rd Floor, 59 State House Station, Augusta, ME 04330. Telephone: (207) 441-9831. TTY:1 (800) 437-1220. Email: Housing.DECD@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: This rule requires municipalities to update land use and zoning ordinances in accordance with PL 2021 ch. 672. The Department was allocated funding to award grants to service providers for municipal ordinance development to comply with PL 2021 ch. 672.

STATUTORY AUTHORITY FOR THIS RULE: PL 2021 ch. 672 codified at 30-A MRS §§ 4364, 4364-A, 4364-B

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

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

DECD RULEMAKING LIAISON: Denise.Garland@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 531**, Wastewater Treatment Plant Operator Certification

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P024**

BRIEF SUMMARY: The Department is proposing to repeal and replace the existing 06-096 CMR Chapter 531, *Regulations for Wastewater Operator Certification*. This rule establishes standards for certification of wastewater treatment plant operators and for the classification of treatment plants. The purpose of the rulemaking proposal is to include changes to the authorizing statute enacted by the legislature in 2021. The rulemaking proposal also includes changes requested by stakeholders.

PUBLIC HEARING: None scheduled. *There is a 36-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.*

COMMENT DEADLINE: March 16, 2023.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Matthew Hight, DEP, 17 State House Station, Augusta, ME 04333. Telephone: (207) 719-0703. Email: Matt.Hight@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None.

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §4179.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY RULEMAKING WEBSITE: <https://www.maine.gov/dep/rules/index.html>.

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 41**, Menhaden (Atlantic Menhaden, 2023 Season

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P025**

BRIEF SUMMARY: This proposed rulemaking specifies a separate start date of the commercial menhaden season for pound nets and fish weirs of June 1st, annually at a reduced daily limit until the broader commercial menhaden fishery opens. Licensed operators of pound nets and fish weirs must mark their gears with buoys that include their full name and DMR Landings number and only that license holder may harvest from that marked gear.

All other gears are proposed to begin commercial menhaden harvesting on the third Monday of June, annually. This rulemaking proposes daily and/or weekly trip limits and open harvest days for the commercial fishery in each fishery phase: State Allocation, Episodic Event set aside, and Incidental Catch and Small Scale. Permissible gear types have been specified for the general menhaden fishery and specifically for the Incidental Catch and Small Scale Fishery as well as the Noncommercial menhaden fishery. The proposed rulemaking also includes a provision that would authorize the Commissioner to prohibit the commercial taking of menhaden for up to 14 days during the State Allocation fishery, if necessary to slow the rate at which the quota is caught.

PUBLIC HEARING: February 27, 2023 - 5:00 p.m. at DMR’s Augusta office (Marquardt Building, 32 Blossom Lane, Room 118) and remotely via Microsoft Teams. *If the February 27th hearing is cancelled due to inclement weather an alternate hearing will be held on February 28th at the same time, location, and format. Remote access information is posted to DMR’s website under “Meetings.”*

COMMENT DEADLINE: March 10, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, Marine resources, 21 State House Station, Augusta, Maine 04333-0021. Email: dmr.rulemaking@maine.gov. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171, §6502-C

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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

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

EMAIL FOR DMR RULEMAKING LIAISON: dmr.rulemaking@maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 37**, Emergency Children’s Shelter, Shelter for Homeless Children, and Transitional Living Program Licensing Rule.

PROPOSED RULE NUMBERS: **2023-P026, P027, P028**

BRIEF SUMMARY: The Department is proposing rulemaking to repeal 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 replace with 10‑148 CMR Ch. 37, *Emergency Children’s Shelter, Shelter for Homeless Children, and Transitional Living Program Licensing Rule*. Substantive changes from the current rules to the proposed rule include: merging the two significantly outdated rules, updating, and consolidating provisions to reflect the current needs of today’s population of homeless youth, updating language to reflect current practice, and adding requirements to afford greater health and safety protection for youth receiving services. The proposed rule includes requirements for Transitional Living Programs, which are currently licensed as Children’s Residential Care Facilities, but are statutorily defined as programs for homeless youth. Additionally, the proposed rule adds requirements for comprehensive background checks that comply with the federal requirements of the *Family First Prevention Services Act of 2018*.

Significant changes include: removing obsolete, outdated, and unused terms from definitions; adding and clarifying definitions; changing the term “children” to “youth” throughout the 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 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 the facility; removing licensing requirement for insurance/bonding; clarifying requirements for licensure application to include the requirement for all policies to be submitted; adding the requirement for Facilities to comply with requests for records; adding required policies, removing specific requirements for personnel policies; adding language for policies to incorporate LGBTQ+ inclusive terminology; updating language regarding youth access to records; adding requirement for staff to sign a statement regarding adult abuse and neglect; adding reporting requirements including adult abuse and neglect; adding youth rights; updating requirements for intake assessment; allowing two days before assessments need to be completed; clarifying and adding requirements for care plans; updating requirements for discharge summary; adding the requirement to assess for human trafficking; adding requirement for CPR-certified staff; updating language regarding first aid kits and adding requirement for first aid kits 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 for homeless shelters 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 in sleeping areas; updating language regarding supervision; removing requirement for staff needing to be able to intervene at all times; removing requirement for specific staff/child ratio; simplifying requirements regarding youth attending religious services; adding requirements for searches to ensure safety; updating language regarding food service and safety; removing requirement for facilities to keep a menu; adding requirement for seatbelts and child safety seats; adding and updating requirement for emergency preparedness plans; adding requirement for continuity of operation plan; specifying requirements for each service type; specifying requirements for daily notes; updating length of stay requirement to 90 consecutive days; 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 staff members; removing language regarding “moral character”; removing language prohibiting staff from working if there is evidence of substance abuse; removing specific requirements for employee evaluations; adding requirements for comprehensive background checks and inclusion of specific disqualifying conditions; adding additional background check requirements to include professional registries and Adult Protective Services; adding disqualifying driving offenses that prohibit a staff member from transporting residents, removing requirement for an employee physical and TB test; removing requirement for a medical statement for staff prior to employment; adding staff training requirements; clarifying language regarding enforcement to reflect current practice; and adding requirement to notify guardians of licensing action.

PUBLIC HEARING: Tuesday, February 28, 2023 at 1 p.m. *This hearing will be conducted via Zoom. Registration can be accessed at* [*https://www.eventbrite.com/e/public-hearing-shelter-and-tlp-rule-tickets-529518192167*](https://www.eventbrite.com/e/public-hearing-shelter-and-tlp-rule-tickets-529518192167)*.*

COMMENT DEADLINE: Friday, March 10, 2023 at 5 p.m.

CONTACT PERSON FOR THIS FILING: Janet Whitten, 2 Anthony Avenue - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. Email: LicensingRules.OCFS@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The proposed rule poses no fiscal impact to counties or municipalities.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1), 4099-E, 4099-G, 7802(7); PL 2021 ch. 98.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED*:* *Family First Prevention Services Act of the Bipartisan Budget Act of 2018*; PL 2021 ch. 98.

OCFS POLICY WEBSITE: [https://www.maine.gov/dhhs/ocfs/about-us/policy-rules](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fdhhs%2Focfs%2Fabout-us%2Fpolicy-rules&data=05%7C01%7CDon.Wismer%40maine.gov%7C8df6afc87b1046463deb08db0ace20e1%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638115652648414597%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=vim7t7nGBcNMz0pjbQ3iWa0A%2BKN3lu6hXz%2BNjk8OnKA%3D&reserved=0)

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

OCFS RULEMAKING LIAISON: LicensingRules.OCFS@Maine.gov.

AGENCY: **02-318** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Electricians’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 180**, Licensure by Endorsement *(New)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P029**

BRIEF SUMMARY: This new chapter outlines a pathway for licensure if the applicant presents proof of licensure by another jurisdiction of the United States that maintains substantially equivalent license requirements. The chapter proposes a licensure by endorsement pathway for licensed journeyman and master electricians, and provides what will be considered “substantially equivalent” license requirements in another U.S. jurisdiction. To obtain a copy of the proposed rule, please visit <https://www.maine.gov/pfr/professionallicensing/professions/electricians> or request a copy from the contact person for this filing.

PUBLIC HEARING: N/A. *Pursuant to 5 MRS §8052(1) and §8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing. Comments on the proposed rules may be submitted to the Regulatory Board Manager by emailing* *electrician.board@maine.gov* *or by mailing comments to the Electricians’ Examining Board, Attn: Matthew Kaply, 35 State House Station, Augusta, ME 04333-0035.*

COMMENT DEADLINE: Friday, March 10, 2023, by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Matthew Kaply, Regulatory Board Manager (OPOR – Electricians), 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Matthew.S.Kaply@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 1153 and 1201-B; 10 MRS §8003-H

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: LD 149 (PL 2021 ch. 167), *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions* and LD 2035 (PL 2021 ch. 642), *An Act to Make Changes to the Laws Regarding Licensure of Certain Individuals from Other Jurisdictions*.

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/electricians>.

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov.

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

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

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P030**

BRIEF SUMMARY: The Commissioner of Inland Fisheries and Wildlife is proposing to amend Chapter 16.11 rules pertaining to season dates and bag limits for the hunting of ducks, geese, and other migratory game birds. The proposed rules will protect migratory game birds from over-harvest by setting these limitations. The proposal is similar to the previous year’s final season framework with two notable changes. The USFWS approved a recommendation from the Atlantic Flyway Council to increase the daily bag limit of mallards from 2 per day to 4 per day (with no more than 2 being hen mallards). This bag limit increase is a result of an estimated increase in the overall eastern mallard population. Also of note is a reduction in the season for Brant, from a 50-day season and a 2-bird daily bag limit to a 30-day season and a 1-bird daily bag limit. Please contact the agency contact person for a complete copy of the proposed rule.

PUBLIC HEARING: Tuesday, February 28, 2023 @ 4:00 p.m. – Inland Fisheries & Wildlife, 353 Water Street, Room 400, Augusta

COMMENT DEADLINE: March 10, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries & Wildlife, 41 State House Station, 353 Water Street, Augusta, ME 04333. Telephone: (207) 287-5202. Email: Becky.Orff@Maine.gov.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 10104, 11855

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

AGENCY WEBSITE: <https://www.maine.gov/sos/cec/rules/09/chaps09.htm>.

**ADOPTIONS:***none this week.*