**State of Maine: Notice of Agency Rulemaking – March 22, 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: **94-293 - Baxter State Park Authority**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Baxter State Park Rules and Regulations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P064**

**BRIEF SUMMARY**: This is a revision to Rule 2.2 to expressly codify the Park Director’s authority to issue, on a case-by-case basis, special use permits, subject to conditions imposed by the Director, that allow children under the age of six (6) years to walk under their own power above timberline.

**DETAILED SUMMARY:** The Baxter State Park Authority interprets current Rule 2.2 as allowing the Park Director to issue special use permits, on a case-by-case basis, that authorize children under the age of six (6) to hike under their own power above timberline provided the applicant demonstrates to the Park Director’s satisfaction the child’s ability to hike under their own power above timberline. For example, the Park Director has issued special use permits to hike above timberline for children under the age of six who had previously hiked the entire length of the Appalachian Trail under their own power (e.g., not carried by an adult) before undertaking a hike of Katahdin. This proposed amendment to current Rule 2.2 would expressly codify in Rule 2.2. the Authority’s interpretation of current Rule 2.2.

**Current Rule 2.2**

* Hiking or **mountain climbing** may be restricted at the discretion of the Director. Park users must be reasonably prepared and equipped for the activity they are engaged in and must take reasonable precautions against endangering themselves or others. Hikers must carry a working flashlight. No children under the age of six (6) years are allowed above timberline. Registration of technical rock/ice climbers is required. The Baxter State Park Authority may request reimbursement of search and rescue costs in cases of reckless hikers.

**Proposed Rule 2.2**

* Hiking or **mountain climbing** may be restricted at the discretion of the Director. Park users must be reasonably prepared and equipped for the activity they are engaged in and must take reasonable precautions against endangering themselves or others. Hikers must carry a working flashlight. *Children under the age of six (6) years walking under their own power may be authorized to travel above timberline by special use permit, subject to conditions set by the Director****.***Registration of technical rock/ice climbers is required. The Baxter State Park Authority may request reimbursement of search and rescue costs in cases of reckless hikers.

**PUBLIC HEARING**: None scheduled. *At end of public comment period, will determine if a hearing is required (if five or more interested persons request a hearing).*

COMMENT DEADLINE: Friday, April 21, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / PARK RULEMAKING LIAISON: Georgia Manzo, Office Specialist I, 64 Balsam Drive, Millinocket, ME 04462. Telephone: (207) 447-8932. Fax: (207) 723-6381. TTY: (207) 723-4419. Mail: [Georgia.Manzo@BaxterStatePark.org](mailto:Georgia.Manzo@BaxterStatePark.org).

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

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §903(1)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.BaxterStatePark.org](http://www.BaxterStatePark.org).

AGENCY: **02-416** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Social Worker Licensure**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Definitions

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P065**

BRIEF SUMMARY: The principal reason for this proposed rulemaking is to amend the definition of “organic mental illness” in the board’s rules. While 32 MRS §7001‑A(10) and 32 MRS §7053-A use the term “organic mental illness” in the board’s law, that term is undefined. Pursuant to 32 MRS §7053-A, no social worker at any level may diagnose organic mental illness.

The board recently revised its rules, including Ch. 10 and the definition of “organic mental illness” to mean “any neurocognitive disorder or neurodevelopmental disorder” as described in the *Diagnostic and Statistical Manual of Mental Disorders* (Fifth Edition), American Psychiatric Association (Washington, D.C. 2013) (“DSM”). After the rule was adopted, the board received feedback from various stakeholders that the rule as amended broadened the disorders included in the definition of “organic mental illness” in a way that unintentionally restricts the ability of licensed clinical social workers to diagnose certain disorders, such as ADD/ADHD. As such a restriction was not the intent of the board, it is now proposing a language change to define “organic mental illness” to accurately reflect the board’s interpretation of the term as used in 32 MRS §§ 7001-A(10) and 7053-A.

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.*

COMMENT DEADLINE: Friday, April 21, 2023, at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Kristina M. Halvorsen, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8420. TTY: Maine relay 711. Email: [Kristina.M.Halvorsen@Maine.gov](mailto:Kristina.M.Halvorsen@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 7001-A, 7030(2), 7053-A.

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

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/state-board-social-worker-licensure>.

AGENCY RULEMAKING LIAISON: [Kristin.Racine@Maine.gov](mailto:Kristin.Racine@Maine.gov).

AGENCY: **02-031** – Department of Professional and Financial Regulation (PFR), **Bureau of Insurance**

CHAPTER NUMBER AND TITLE: **Ch. 835** *(New)*, Dental Insurance Plan Loss Ratio Reporting

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P066**

BRIEF SUMMARY: The proposed rule establishes standards for calculating average loss ratios for health plans providing dental care services, reporting dental loss ratios to the Superintendent, determining dental plan credibility, and establishing a process to determine outlier dental plans.

PUBLIC HEARING: April 12, 2023, at 9:00 a.m. by audio/visual link from the Department of Professional and Financial Regulation, Bureau of Insurance, 221 State Street, ME 04330. *Instructions for registering for and attending the hearing remotely, by audio-visual link or telephone, are on the Bureau of Insurance website,* [*https://www.maine.gov/pfr/insurance/news-public-notices/public-event-notices*](https://www.maine.gov/pfr/insurance/news-public-notices/public-event-notices)*.*

COMMENT DEADLINE: 4:30 p.m., April 24, 2023 by mail or email to the Contact Person.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Karma Lombard, PFR, 34 State House Station, Augusta, ME 04333-0034. Telephone: (207) 624-8450. TTY users use Maine Relay 711. Email: [Karma.Y.Lombard@Maine.gov](mailto:Karma.Y.Lombard@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: none

STATUTORY AUTHORITY FOR THIS RULE: 24-A MRS §§ 212 and 4319-B.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: n/a

BUREAU RULES WEBSITE: <https://www.maine.gov/pfr/insurance/legal/rules/index.html#proposed>

BUREAU RULEMAKING LIAISON: [Benjamin.Yardley@Maine.gov](mailto:Benjamin.Yardley@Maine.gov)

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 32**, Elver Quota System for the 2023 season

ADOPTED RULE NUMBER: **2023-045**

CONCISE SUMMARY: This rule establishes the elver quota allocations for the 2023 season for individuals licensed under §§ 6505-A and 6302-A, and the method of calculating individual elver quota allocations for individuals licensed under §6505-A. The quota for the Passamaquoddy Tribe has been adjusted in accordance with their overage in the 2022 season. For individuals licensed under §6505-A, 2023 allocations for individuals will be the same as their 2022 allocations, plus any quota associated with licenses not renewed in 2022, or licenses suspended for the duration of the 2023 season, which will be distributed evenly to all existing license holders.

EFFECTIVE DATE: March 18, 2023

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@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](mailto:Deirdre.Gilbert@Maine.gov).

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

CHAPTER NUMBER AND TITLE: **Ch. 34**, Groundfish Regulations: Maximized Retention Monitoring

ADOPTED RULE NUMBER: **2023-046**

CONCISE SUMMARY: This rule incorporates into state regulation the electronic monitoring maximized retention model, which is a monitoring tool approved by NOAA to achieve sector monitoring coverage in the federal groundfish fishery. This rule defines 'electronic monitoring maximized retention model' and 'allocated groundfish species.' It adds an exemption from the minimum sizes for allocated groundfish species to vessels participating in the maximized retention model, subject to constraints specified in the rule.

EFFECTIVE DATE: March 18, 2023

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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DMR RULEMAKING LIAISON: [Deirdre.Gilbert@Maine.gov](mailto:Deirdre.Gilbert@Maine.gov).

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

CHAPTER NUMBER AND TITLE: **Ch. 36**, Atlantic Herring: 2023 Administrative Update

ADOPTED RULE NUMBER: **2023-047**

CONCISE SUMMARY: This regulation amends language clarifying the seasonal structure of the Management Area 1A herring fishery. Additionally, section 36.01(B)(3) clarified the reporting timeframe as described in Ch. 8, *Landings*, Section 8.20(R).

EFFECTIVE DATE: March 18, 2023

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov).

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