**State of Maine: Notice of Agency Rulemaking – August 10, 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: **02-380 - State Board of Nursing**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P022** *(update to notice published August 3, 2022)*

PUBLIC HEARING: August 26, 2022 at 8:00 a.m. at 161 Capital Street, Augusta, ME, unless an emergency or urgent issue requires a board or commission to meet by entirely remote methods pursuant to 1 MRS §403-B. Please visit the board webpage for specific meeting information : <https://www.maine.gov/boardofnursing>.

COMMENT DEADLINE: September 6, 2022 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Jessica Richardson, Assistant Executive Director, State Board of Nursing, 158 State House Station, Augusta, ME. Telephone. (207) 287-1147. Fax (207) 287-1149.Email: Jessica.A.Richardson@Maine.gov.

AGENCY: **29-250** - Secretary of State (SOS), **Bureau of Motor Vehicles (BMV)**

CHAPTER NUMBER AND TITLE: **Ch. 15**, Rules Governing Acceptable Documents to Establish Legal Presence

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P150**

BRIEF SUMMARY: These rules, first published in 2008, implement the provisions of 29-A MRS §§ 1301(2-A) and 1410(8) which prohibit the Secretary of State from issuing a driver’s license or nondriver identification card to an individual unless the individual presents valid documentary evidence of legal presence in the United States. These rules describe the documents that may be accepted to establish evidence of legal presence in the United States. The changes being proposed to these rules update the existing guidance, bringing Maine’s practices into compliance with federal law changes since this chapter originally became effective. These changes will clarify procedures for BMV staff, increasing efficiency and effectiveness, which will ultimately improve customer service.

PUBLIC HEARING: September 2, 2022 - 10:00 a.m., Bureau of Motor Vehicles, Main Office - Executive Conference Room - 2nd Floor, 101 Hospital Street, Augusta, ME 04333

COMMENT DEADLINE: September 12, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT STATEMENT / BMV RULEMAKING LIAISON: Tina B. Corkum, Bureau of Motor Vehicles, 29 State House State, Augusta, ME 04333. Telephone: (207) 624-9000. Fax: (207) 624-9013. TTY Users call Maine relay 711. Email: Tina.B.Corkum@Maine.gov.

PublicComment.SOS@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 29-A MRS §153

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

BMV WEBSITE: <https://www.maine.gov/sos/bmv/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 305**, Natural Resources Protection Act – Permit by Rule

TYPE OF RULE: Hybrid: Routine Technical –new Section 16-A; Major Substantive –Section 16

PROPOSED RULE NUMBERS: **2022-P151, P152**

BRIEF SUMMARY: The purpose of this proposed revision is to bring the Department’s rules into alignment with statutory changes concerning minor expansions in coastal sand dunes and to allow some beach nourishment projects to qualify for *Natural Resource Protection Act* (NRPA) permit by rule. The proposed revision also allows for planting native dune vegetation by hand with a NRPA permit by rule.

PUBLIC HEARING: September 1, 2022, 9:00 a.m., Marquardt Building - 32 Blossom Lane, Augusta, Maine. Entrance located on east side of building (Door D7).

COMMENT DEADLINE: September 12, 2022. *Comments may be submitted by mail, email or fax. Comments should include your name and the organization you represent, if any.*

CONTACT PERSON FOR THIS FILING/ SMALL BUSINESS IMPACT INFORMATION: Naomi Kirk-Lawlor, DEP, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-7844. Email: Naomi.Kirk-Lawlor@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 38 .RS §344(7)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 533**, Operations, Maintenance, and Asset Management Standards for Publicly Owned Treatment Works and Municipal Satellite Collection Systems

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2022-P153**

BRIEF SUMMARY: This chapter establishes standards for the operations, maintenance and asset management for publicly owned treatment works (POTW) and municipal satellite collection systems (MSCS) in Maine.

PUBLIC HEARING: September 1, 2022 - 9:00 a.m., Marquardt Building, 32 Blossom Lane, Augusta, Maine. Entrance located on east side of building (Door D7).

COMMENT DEADLINE: September 12, 2022. *Comments may be submitted by mail, email or fax. Comments should include your name and the organization you represent, if any.*

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

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: Many of these facilities already have the programs in place. It is the Department’s intent that developing the required asset management and operations and maintenance programs could be done with existing resources. The cost of having one prepared by a consultant, which is not required, could range from $25,000 to $250,000 depending on the size and complexity of the POTW or MSCS. Any costs could be spread over 7 years, in the long run improved planning could lead to more cost-effective operations and fiscal sustainability.

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §414-B(5)

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

DEP 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. 8**, Landings Program: Scallop, Herring, Lobster, and Pelagic and Anadromous

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P154**

BRIEF SUMMARY: This proposed rulemaking makes changes to the reporting requirements for scallop, herring, lobster, and pelagic and anadromous license holders. It changes the frequency of reporting for scallop license holders from trip level data reported monthly to trip level data reported weekly (no later than 11:59 p.m. Sunday) and requires that reports are submitted via an approved electronic mechanism. The data elements in the scallop harvester report remain unchanged. The proposed rule also extends the time frame for which daily reporting is required in the herring fishery, from September 30 to December 30 annually. The data elements in the herring harvester report remain unchanged. The proposed rule requires all lobster license holders (except apprentice and noncommercial license holders) to report trip level data monthly, and requires reports to be submitted via an approved electronic mechanism. The data elements required in the lobster harvester report remain unchanged. Finally, the proposed rule clarifies that pelagic and anadromous license holders only need to report those species authorized under the pelagic and anadromous license.

PUBLIC HEARING: August 30, 2022 - 5:00 p.m., in-person at the Marquardt Building, Room 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. *Remote access information is posted to DMR’s website under “Meetings.”* Hearing facilities*: If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: September 9, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6173

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 11**, Scallops: 2022-2023 Season

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P155**

BRIEF SUMMARY: This proposed rulemaking establishes the 2022-2023 scallop fishing season. Daily possession limits of 15 gallons for Zone 1 and Zone 2, and 10 gallons for Zone 3 remain unchanged. For Zone 1, a 60-day season for draggers would begin on December 12, 2022 and the last day of the season would be March 23, 2023. For Zone 1, a 60-day season for divers would start on November 15, 2022 and the last day of the season would be April 29, 2023. For Zone 2, a 70-day season for draggers would start on December 1, 2022 and the last day of the season would be March 30, 2023. For Zone 2, a 70-day season for divers would start on November 17, 2022 and the last day of the season would be April 22, 2023. For Zone 3, a 50-day season for draggers would begin on December 5, 2022 and the last day of the season would be March 28, 2023. For Zone 3, a 50-day season for divers would begin on December 1, 2022 and the last day of the season would be April 29, 2023.

Harvesting of scallops by hand (diving) is restricted to Rotation A (First) only for the 2022-2023 season. Harvesting for scallops by dredge gear is restricted to Rotation B (Second) only for the 2022-2023 season. A new limited access area is proposed for East Moosabec Reach in Zone 2 for the 2022-2023 season. The St. Croix River in Zone 3 re-opens to harvest for the 2022-2023 season.

DMR would maintain the following Limited Access Areas: Western Penobscot Bay, Muscle Ridge, Whiting and Denny’s Bays. Additionally, the following existing targeted closures based on depletion, high concentrations of seed/sublegal scallops and/or the presence of spat-producing scallops would be maintained: Lower Muscle Ridge, Upper Sheepscot River, New Meadows River, Card Cove and Beals-Jonesport Bridge.

PUBLIC HEARINGS: Public hearings are scheduled for 5:00 p.m. at the dates and locations listed below:

\* August 29, 2022: DMR’s Augusta Office (Marquardt Building), 32 Blossom Lane, Room 118; or remotely via Microsoft Teams. Remote access information is posted to DMR’s website under meetings.

\* September 1, 2022: University of Maine at Machias, 116 O’Brien Ave., Science Building, Room 102

Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: September 11, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). EMAIL: dmr.rulemaking@maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 6171, 6722

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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

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

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

AGENCY: **01-669** - Department of Agriculture, Conservation and Forestry (DACF), **Bureau of Forestry**

CHAPTER NUMBER AND TITLE: **Ch. 25**, Standards for Placing Wood into Stream Channels to Enhance Cold Water Fisheries Habitat

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2022-P156**

**BRIEF SUMMARY**: This rule amends Maine Forest Service rule Ch. 25, *Standards for Placing Wood into Stream Channels to Enhance Cold Water Fisheries Habitat*. The current rule is based on standards developed by the state of Oregon. Proposed amendments include altering appropriate tree diameter and loading rate to better reflect tree availability and sizing in Maine. The proposed amendments are closely aligned with current Natural Resource Conservation Service (NRCS) standards.

**DETAILED SUMMARY:** This rule sets forth standards for placing large wood into stream channels for the purpose of fisheries enhancement. It also provides a more streamlined review process for projects overseen by licensed foresters and fisheries biologists by removing a requirement to obtain a *Natural Resources Protection Act* (NRPA) permit.

The current rule is based on standards developed by the state of Oregon. Amendments include altering appropriate tree diameter and loading rate to better reflect tree availability and sizing in Maine. The proposed amendments are closely aligned with current Natural Resource Conservation Service (NRCS) standards.

The Maine Forest Service (MFS) will administer this rule as it currently does, reviewing proposed projects in conjunction with review of Forest Operations Notifications. MFS works closely with the Department of Inland Fisheries and Wildlife in the administration of this rule, including required training for licensed foresters and fisheries biologists.

**PUBLIC HEARING**: August 29, 2022, 9:00 a.m., Online (Teams)

COMMENT DEADLINE: September 8, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Tom Gilbert, Water Resources Specialist, Maine Forest Service, 22 State House Station, Augusta, ME 04333-0022. Telephone: (207) 441-5282. Email: Thomas.Gilbert@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §8867-C; Public Law 2011 Ch. 599

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

BUREAU WEBSITE: <https://www.maine.gov/dacf/mfs/index.shtml>.

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

**ADOPTIONS: none this week.**