**State of Maine: Notice of Agency Rulemaking – February 23, 2022**

**PROPOSALS**

AGENCY: **15-210 - Department of Defense, Veterans and Emergency Management (DVEM)**

CHAPTER NUMBER AND TITLE: **Ch. 1** *(Repeal)*, Grievance Procedures for the Handicapped

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P021**

BRIEF SUMMARY: The Department of Defense, Veterans and Emergency Management (DVEM) intends to repeal department rule 15-210 ch. 1, *Grievance Procedures for the Handicapped*. Recently the State of Maine implemented 2021 Public Law ch. 348 which requires all branches of State Government to discontinue the use of the term “handicap”, “handicapped” and “hearing impaired”. Upon searching departmental official documents, it is determined rule 15-210 ch. 1 is in violation of the new law. In consultation with the State of Maine Bureau of Human Resources and the Office of Employee Relations, rule 15-210 ch. 1. which was originally published December 19, 1984 is determined to be antiquated and obsolete. The Department of Labor has published a state-wide grievance procedure, rule 12-168 ch. 50, *Nondiscrimination Policy and Grievance Procedure*. The intent of this proposal is to repeal the Department of Defense, Veterans and Emergency Management rule.

PUBLIC HEARING: None

COMMENT DEADLINE: March 31, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DVEM RULEMAKING LIAISON: Scott A. Young, Department of Defense…, 33 State House Station, Augusta, ME 04333-0033. Telephone: (207) 430-5997. Fax: (207) 626-4509. Email: [Scott.A.Young@Maine.gov](mailto:Scott.A.Young@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 29 US Code §794 required recipients of federal funds to adopt grievance procedures which provide for the prompt and equitable resolution of complaints alleging any action prohibited by federal regulations implementing Section 504 of the *Rehabilitation Act of 1973*.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

DVEM WEBSITE: <https://maine.gov/dvem>.

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**

BRIEF SUMMARY: The State Board of Nursing proposes amendments to the rule regarding training programs and delegation by registered professional nurses of selected nursing tasks to certified nursing assistants. The proposed amendments: modify clinical sites approved for CNA-M medication administration; include diabetic subcutaneous medication administration, gastrostomy tube medication administration, and nebulizer therapy; modify faculty requirements for course instruction with changes in related experience; include an exemption to permit registered nurse students in a nursing program that meet medication administration requirements to administer medications; and add language to permit practical nurses/ registered professional nurses who successfully complete a prelicensure program to administer medications.

PUBLIC HEARING: None planned. *Requests to hold a public hearing by any interested party may be submitted in writing to the identified agency contact person.*

COMMENT DEADLINE: March 28, 2022 at 4:30 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / BOARD RULEMAKING LIAISON: Jessica Richardson, Assistant Executive Director, State Board of Nursing, 158 State House Station, Augusta, ME 04333. Telephone: (207) 287-1147. Fax (207) 287-1149. Email: [Jessica.A.Richardson@Maine.gov](mailto:Jessica.A.Richardson@Maine.gov).

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §1812-G(3); 32 MRS §§ 2102(2)(D) and (8), 2104(4), 2153-A(1)

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

BOARD WEBSITE: <http://www.maine.gov/boardofnursing>

AGENCY: **02-380 - State Board of Nursing**

CHAPTER NUMBER AND TITLE: **Ch. 13**, Criminal History Record Information

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P023**

BRIEF SUMMARY: The proposed rule implements fingerprint-based background checks for all applicants for initial licensure or licensure by endorsement, including applications for multistate licensure. The Board of Nursing is required under 32 MRS §2111(2) to adopt rules to implement §2111.

PUBLIC HEARING: None planned. *Requests to hold a public hearing by any interested party may be submitted in writing to the identified agency contact person.*

COMMENT DEADLINE: March 28, 2022 at 4:30 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Kimberly S. Esquibel, Executive Director, State Board of Nursing, 158 State House Station, Augusta, ME 04333-0158. Telephone: (207) 287-1148. Fax (207) 287-1149. Email: [Kim.Esguibel@Maine.gov](mailto:Kim.Esguibel@Maine.gov).

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

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 2111(2), 2153-A(1).

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

BOARD WEBSITE: <http://www.maine.gov/boardofnursing>.

BOARD RULEMAKING LIAISON: [Jessica.A.Richardsonj@Maine.gov](mailto:Jessica.A.Richardsonj@Maine.gov).

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

CHAPTER NUMBER AND TITLE: **Ch. 25**, Lobster and Crab Regulations: **25.04**, (Zone B) Lobster Trawl Limits

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P024**

BRIEF SUMMARY: This proposed rulemaking modifies an existing 3-trap maximum in Zone B to a 5-trap maximum to comply with the new Atlantic Large Whale Take Reduction Team rule.

PUBLIC HEARING: March 15, 2022, 5:30 p.m. - remotely via Microsoft Teams. *Remote access information is posted to DMR’s website under “Meetings.” An alternate public hearing may be held at 5:30 p.m. on March 17, 2022 in the same format. Notice of a cancellation would be posted to DMR’s website.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: March 28, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Lorraine Morris, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 441-5319. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: [DMRLobster@Maine.gov](mailto:DMRLobster@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

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

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

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

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. 75**, Protected Resources (Compliance with Atlantic Large Whale Take Reduction Plan)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P025**

BRIEF SUMMARY: This proposed rule-making incorporates the measures in the 2021 Atlantic Large Whale Take Reduction Plan final rule for 1700-pound weak link inserts, gear marking requirements, minimum trawl lengths, and defines the LMA1 Restricted Area.

PUBLIC HEARING: March 15, 2022, 5:00 p.m. remotely via Microsoft Teams. *Remote access information is posted to DMR’s website under “Meetings.” An alternate public hearing may be held at 5:00 p.m. on March 17, 2022 in the same format. Notice of a cancellation would be posted to DMR’s website.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: March 28, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Lorraine Morris, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 441-5319. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: [DMRLobster@Maine.gov](mailto:DMRLobster@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: 50 Code of Federal Regulations, sections 229.2, 229.32 and 697.21 published in 86 Federal Register, 51970 – 52024 (2021).

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

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

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. 115**, *Vibrio parahaemolyticus* Control Plan

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P026**

BRIEF SUMMARY: This proposed regulation would add specified areas of the Weskeag River to existing vibrio control areas. The addition of the Weskeag River is intended to reduce the likelihood that American and European oysters (*Crassostrea virginica and Ostrea edulis*) and hard clams (*Mercenaria mercenaria*) harvested from the Weskeag River will cause *Vp* infections in consumers. The Maine Department of Marine Resources recognizes that this area has the environmental characteristics (primarily water and air temperature and salinity) that potentially pose a threat to public health with regard to *Vp* infections. Research indicates that the most reliable way to minimize potential *Vp* illnesses is to utilize time and temperature controls.

PUBLIC HEARING: March 14, 2022, 4:00 p.m., held remotely via Microsoft Teams. *Remote access information is posted to DMR’s website under “Meetings.” If the March 14th hearing is postponed it will be held on March 17th at the same time and format. Notice of a cancellation would be posted to DMR’s website.* Hearing facilities: *If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: March 27, 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](mailto:DMR.rulemaking@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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

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

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

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Bureau of Revenue Services (Maine Revenue Services (MRS - Taxation)**

CHAPTER NUMBER AND TITLE: **Ch. 202**, Tree Growth Tax Law Valuations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P027**

BRIEF SUMMARY: MRS is proposing to repeal and replace Rule 202 (*Tree Growth Tax Law Valuations*). The following changes are being made to the proposed rule. The rule is being replaced to provide updated valuation rates for each forest type by region. 36 MRS §576 requires that the State Tax Assessor annually establish the value per acre for each forest type, by economic region, for parcels classified under the Tree Growth Tax Law.

PUBLIC HEARING: N/A

COMMENT DEADLINE: March 25, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Alex Weber, General Counsel, Maine Revenue Services, 51 Commerce Drive, Augusta, Maine 04330. Telephone: (207) 624-9712: Email: [Alexander.J.Weber@Maine.gov](mailto:Alexander.J.Weber@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The rule has minimal impact on municipalities. The valuation amounts for the Tree Growth Tax Law program vary from year to year, which impacts the property tax assessed on land in the program. Fluctuations in local taxes due to valuation changes in this program are partially offset by reimbursement and state subsidy provisions.

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §576

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

MRS WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue).

DAFS RULEMAKING LIAISON: [Anya.Trundy@Maine.gov](mailto:Anya.Trundy@Maine.gov).

**ADOPTIONS**

AGENCY: **02-395** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Plumbers’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 4**, Installation Standards

ADOPTED RULE NUMBER: **2022-022**

CONCISE SUMMARY: The adopted rule amends the recently adopted ch. 4, *Installation Standards*, which establishes installation rules and incorporates by reference into board rule the International Association of Plumbing and Mechanical Officials *2021 Uniform Plumbing Code* (“UPC”), Copyright © 2020 29th edition, Third Printing, May 2021, subject to certain amendments and exclusions. The adopted rule amends ch. 501.1, “Applicability”; excludes Table 501.1(1), “Water Heaters”; adopts Table 501.1(2), “First Hour Rating”; excludes ch. 505.1, “Water Heaters”; excludes ch. 505.2, “Safety Devices”; and excludes ch. 721.0, “Location” through ch. 723.1, “General”.

EFFECTIVE DATE: February 23, 2022

BOARD CONTACT PERSON: Catherine M. Carroll, Board Administrator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Plumbers’ Examining Board, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: [Catherine.M.Carroll@Maine.gov](mailto:Catherine.M.Carroll@Maine.gov).

BOARD WEBSITE:

<https://www.maine.gov/pfr/professionallicensing/professions/plumbers-examining-board>.

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

CHAPTER NUMBER AND TITLE: **Ch. 11**, Scallops: **11.08**, Targeted Closures: **(9)** Gouldsboro & Dyers Bay RA; **(11)** Cobscook, Whiting & Dennys Bays; **(12)** Upper Machias RA; **(13)** West Vinalhaven Islands

ADOPTED RULE NUMBER: **2022-023** *(Emergency)*

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking to establish scallop conservation closures for Cobscook, Whiting, and Dennys Bays (Zone 3), Upper Machias Bay Rotational Area (RA), Gouldsboro & Dyers Bays RA and West Vinalhaven Islands in the Lower Penobscot RA (Zone 2). The Department is concerned that continued harvesting for the remainder of the 2021-2022 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2021 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in four important scallop harvest areas. For these reasons, the Commissioner hereby adopts an emergency closure of Maine’s scallop fishery in these areas as authorized by 12 MRS §6171(3)(A).

EFFECTIVE DATE: February 20, 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: (888) 577-6690 (Deaf/Hard of Hearing). Email: [Melissa.Smith@Maine.gov](mailto:Melissa.Smith@Maine.gov).

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 29** *(New)*, Species of Special Concern

ADOPTED RULE NUMBER: **2022-024**

CONCISE SUMMARY: In accordance with Public Law ch. 65, titled “An Act To Amend Maine’s Wildlife Laws Regarding Species of Special Concern” the Department has adopted new rule ch. 29 to establish criteria for determining when a species of fish or wildlife that is not an endangered species or a threatened species is of special concern. The rule includes criteria for categories of species of special concern, including a category for species that are rare. The commissioner shall use the list in administering 12 MRS §12152 and may also use the list in administering any other laws or programs or when providing advisory recommendations to other entities or agencies on fish and wildlife matters in accordance with applicable laws or rules. A complete copy of the rule may be requested by contacting the Agency Contact Person.

EFFECTIVE DATE: February 27, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: [Becky.Orff@Maine.gov](mailto: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.13**, Watercraft Rules (Boating Events)

ADOPTED RULE NUMBER: **2022-025**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has amended ch. 13, *Watercraft Rules*, to implement a permitting process for motorboat race events, boat regattas, parades, non-motorized boat races and boat or water-ski exhibitions. The rule addresses application details, expectations and conditions that must be adhered to for the event applicant(s) and participants(s) and consequences for the permit holder(s) as well as participants if violations occur. These rules are established to protect public safety, wildlife and wildlife habitat and water quality. A complete copy of the proposed rule may be requested by contacting the Agency Contact Person.

EFFECTIVE DATE: May 1, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: [Becky.Orff@Maine.gov](mailto:Becky.Orff@Maine.gov).

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