**State of Maine: Notice of Agency Rulemaking – March 29, 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: **01-672 -** Department of Agriculture, Conservation & Forestry (DACF), **Maine Land Use Planning Commission** **(LUPC)**

CHAPTER NUMBERS AND TITLES:

**Ch. 2**, Definitions

**Ch. 10**, Land Use Districts and Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2023-P067, P068**

BRIEF SUMMARY: The Maine Land Use Planning Commission is proposing revisions to Ch. 2 and Ch. 10. The proposed revisions include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory language, the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, the addition of parking space requirements for non-residential development, clerical edits and clarifications, and the removal of Appendix E. All proposed revisions are routine in nature.

PUBLIC HEARING: N/A *(a public hearing has not been scheduled).*

COMMENT DEADLINE: Written comments must be submitted on or prior to May 1, 2023; written rebuttal comments must be submitted on or prior to May 8, 2023.

CONTACT PERSON FOR THIS FILING . SMALL BUSINESS IMPACT INFORMATION: Tim Beaucage, LUPC, 22 State House Station, Augusta, ME 04333-0022. Telephone: (207) 931-6974. Email: Timothy.Beaucage@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A per 12 MRS §685-A(7-A)(B)

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 685-A(3), 685-A(7-A), 685-C(5)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Not applicable.

LUPC RULES WEBSITE: [www.maine.gov/dacf/lupc/laws\_rules/index.shtml](http://www.maine.gov/dacf/lupc/laws_rules/index.shtml).

LUPC WEBSITE: [www.maine.gov/dacf/lupc/](http://www.maine.gov/dacf/lupc/).

LUPC RULEMAKING LIAISON: Stacie.R.Beyer@Maine.gov.

AGENCY: **01-672 -** Department of Agriculture, Conservation & Forestry (DACF), **Maine Land Use Planning Commission** **(LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 4,**Rules of Practice

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P069**

BRIEF SUMMARY: The Maine Land Use Planning Commission is proposing to revise Ch. 4 to identify two specific types of applications as being ‘routine’ and therefore authorize staff to act on those applications. The two types of applications include, i) applications to amend wetland subdistrict boundaries when supported by on-site wetland delineations, and ii) applications for the adoption of official Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps produced by the Federal Emergency Management Agency. All other revisions represent typical rule maintenance.

PUBLIC HEARING: N/A *(a public hearing has not been scheduled).*

COMMENT DEADLINE: Written comments must be submitted on or prior to May 1, 2023; written rebuttal comments must be submitted on or prior to May 8, 2023.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Tim Beaucage, LUPC, 22 State House Station, Augusta, ME 04333-0022. Telephone: (207) 931-6974. Email: Timothy.Beaucage@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 684, 685-A(3), 685-C(5); 5 MRS §8051

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: None.

LUPC RULES WEBSITE: [www.maine.gov/dacf/lupc/laws\_rules/index.shtml](http://www.maine.gov/dacf/lupc/laws_rules/index.shtml).

LUPC WEBSITE: [www.maine.gov/dacf/lupc/](http://www.maine.gov/dacf/lupc/).

LUPC RULEMAKING LIAISON: Stacie.R.Beyer@Maine.gov.

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 4**, Caseload Standards for Assigned Counsel and Contract Counsel

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P070**

BRIEF SUMMARY: This proposed rule will establish caseload standards for assigned and contract counsel and a method for tracking and monitoring caseloads on an ongoing basis.

PUBLIC HEARING: None

COMMENT DEADLINE: April 30, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Justin Andrus, Executive Director, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Fax: (207) 287-3293. Email: Justin.Andrus@Maine.gov.

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

STATUTORY AUTHORITY FOR THIS RULE: 4 MRS §§ 1804(2)(C), (2)(G), (4)(D)

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

MCILS WEBSITE: [www.maine.gov/mcils/](http://www.maine.gov/mcils/).

MCILS RULEMAKING LIAISON: Eleanor.Maciag@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 90** *(New)*, Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P071**

BRIEF SUMMARY: The Department is proposing a new rule: Chapter 90, *Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances*. The rule provides additional guidance on the notification requirements and sales prohibitions for products and product components containing intentionally added PFAS pursuant to 38 MRS §1614.

PUBLIC HEARING: April 20, 2023 - 9:00 a.m., Augusta Civic Center, 76 Community Drive, Augusta, Maine.

COMMENT DEADLINE: May 19, 2023 - 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DEP RULEMAKING LIAISON: Mark Margerum, dep, 17 Statehouse Station, Augusta ME 04333-0017. Telephone: (207) 287-7842. Email: Mark.T.Margerum@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No significant fiscal impact on municipalities or counties is anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §1614

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

DEP RULES WEBSITE: <https://www.maine.gov/dep/rules/index.html>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 5.01**, State Owned Wildlife Management Areas, Shooting Ranges and Boat Launch Facilities: Steve Powell Wildlife Management Area (Swan Island) Perkins Township, Sagadahoc County

PROPOSED RULE NUMBER: **2023-P072**

BRIEF SUMMARY: The Commissioner of the Department of Inland Fisheries and Wildlife (DIFW) is proposing to amend Ch. 5 rules as they pertain to operations at the Steve Powell Wildlife Management Area (WMA) in Perkins TWP, Sagadahoc County. DIFW is proposing to make the WMA a self-access model for both day-use and overnight camping. This model of operation would also remove the need for the public to reserve camping facilities and provide clarity to other rule provisions specific to the Steve Powell WMA. The proposed changes will allow for continued public use and enjoyment of the resource while at the same time creating consistency regarding access to all other WMAs. For a complete copy of the proposed rule please contact the agency contact person.

PUBLIC HEARING: Thursday, April 20, 2023 @ 4:00 p.m. – Inland Fisheries & Wildlife, 353 Water Street, Room 400, Augusta, ME

COMMENT DEADLINE: May 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 10104, 12701

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: *(no response)*

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw).

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

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.08**, Moose Hunting (permit allocations)

PROPOSED RULE NUMBER: **2023-P073**

BRIEF SUMMARY: The Department of Inland Fisheries and Wildlife is proposing moose permit allocation numbers for moose hunting permits to be issued for the 2023 moose hunting season. Permits will be issued for antlered, antlerless and any-moose. As was done previously in WMDs 27 & 28, the Department is proposing additional combined units wherein a permittee can hunt either WMD and is also proposing to adjust the season dates for the traditional antlerless moose hunt and the Adaptive Management Unit hunt. Proposed permit allocations according to Wildlife Management District are as follows:

**WMD 1** – 450 antlered / 175 antlerless

**WMD 2** – 350 antlered /175 antlerless

**WMD 3 –** 200 antlered / 125 antlerless

**WMD 4** – 400 antlered / 100 antlerless

**WMD 4A (adaptive hunt)** – 600 antlerless

**WMD 5** – 250 antlered / 125 antlerless

**WMD 6 –** 200 antlered / 60 antlerless

**WMD 7 & 13 (combined) –** 140 antlered

**WMD 8** – 200 antlered / 150 antlerless

**WMD 9** - 125 antlered

**WMD 10** – 60 antlered

**WMD 11** – 50 antlered

**WMD 12 & 15 (combined)** – 40 antlered

**WMD 14 & 17 (combined)** – 40 antlered

**WMD 16** – 0 permits

**WMD 18** – 40 antlered

**WMD 19** – 60 antlered

**WMD 27** **& 28 (combined)** – 40 antlered

**Totals: 4,155 – 2,645 (antlered); 1,510 (antlerless)**

*Please contact the agency contact person for a complete copy of the rule proposal.*

PUBLIC HEARING: Tuesday, April 18, 2023 @ 4:00 p.m. – Inland Fisheries & Wildlife, 353 Water Street - Room 400, Augusta, ME

COMMENT DEADLINE: April 28, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 11551, 11552

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: *(no response)*

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw).

**ADOPTIONS**

AGENCY: **02-514** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Counseling Professionals Licensure**

CHAPTER NUMBER AND TITLE: **Ch. 6-A** *(New)*, Licensure by Endorsement

ADOPTED RULE NUMBER: **2023-048**

CONCISE SUMMARY: This chapter describes the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially equivalent to Maine’s requirements. This rule implements LD 149 (PL 2021 c. 167), *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions*, and LD 2035 (PL 2021 c. 642), *An Act to Make Changes to the Laws Regarding Licensure of Certain Individuals from Other Jurisdictions*.

EFFECTIVE DATE: April 1, 2023

AGENCY CONTACT PERSON: Kristina M. Halvorsen, Board Administrator, Department of Professional and Financial Regulation - Office of Professional and Occupational Regulation, Board of Counseling Professionals Licensure, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8420. TTY users call Maine Relay 711. Email: Kristina.M.Halvorsen@Maine.gov.

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-of-counseling-professionals-licensure>.

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

AGENCY: **01-015** – Department of Agriculture, Conservation and Forestry (DACF), **Maine Milk Commission (MMC)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices, **Order #04-23**

ADOPTED RULE NUMBER: **2023-049** *(Emergency)*

CONCISE SUMMARY: Minimum April 2023 Class I price is $22.10/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt. as being prevailing in Southern New England and $0.47/cwt. handling fee for a total of $25.44/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: April 2, 2023

MMC CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Julie-Marie R. Bickford, Maine Milk Commission – DACF, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521.

Email: Julie-Marie.Bickford@Maine.gov.

MMC WEBSITE: <https://www.maine.gov/dacf/milkcommission/index.shtml>.

AGENCY: **10-144** – Department of Health and Human Services (DHHS), **Maine Center for Disease Control and Prevention (Maine CDC)**

CHAPTER NUMBER AND TITLE: **Ch. 270**, Sample Collection and Drug Testing Rule for Suspected Operating Under the Influence Cases

ADOPTED RULE NUMBER: **2023-050**

CONCISE SUMMARY: The Department amended this rule to update requirements for law enforcement agencies and laboratories involved in testing of persons suspected of operating under the influence of intoxicating liquor or drugs (29-A MRS §§ 2431-2528). The adopted rule is consistent with legislative changes enacted by the 129th Maine State Legislature, impacting certification, sample collection and testing for intoxicating substances. This rule ensures accurate testing for forensic purposes and compliance with applicable rules and standards. Adopted routine technical rule changes include the following:

* Revised title from *Rules for Sample Collection and Drug Testing in Suspected O.U.I. Cases* to *Sample Collection and Drug Testing Rule for Suspected Operating Under the Influence Cases*;
* Added definition for *Drug Recognition Expert (DRE)*;
* Replaced *substance of abuse* with *substance of use*;
* Removed obsolete language and verbiage;
* Updated accreditation requirements, testing standards, laboratory technical director and analyst qualifications, for quality assurance purposes;
* Updated reference to the lab’s accreditation board, removing *ASCLD-LAB and the Society of Forensic Toxicologists (SOFT)*, the specific names listed in rule for approving bodies of proficiency testing programs.
* Replaced the term *urine drug analysis* with *toxicology analysis*, where applicable;
* Clarified requirements related to procedure manuals, sample collection and storage, and release of samples;
* Clarified analysis of blood for alcohol level; and
* Revised formatting conventions and other minor non-substantive changes to language and grammar.

Additionally, in response to public comment, the Department further revised Section 2(A) to clarify that there is flexibility in the settings where qualified persons draw blood, and changed the order of paragraphs (1)(c) and (1)(d) to improve readability. All blood specimens must be collected by a qualified person in a manner consistent with the qualified person’s professional training. Urine samples must only be collected in a law enforcement facility or healthcare facility, to protect the individual’s privacy.

EFFECTIVE DATE: April 3, 2023

AGENCY CONTACT PERSON: Bridget Bagley, Policy Analyst, 11 State House Station, Augusta, Maine 04330. Telephone: (207) 287-9394. Email:.Bridget.Bagley@Maine.gov.

MAINE CDC RULES WEBSITE: <http://www.maine.gov/dhhs/mecdc/rules/>

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

DHHS RULEMAKING LIAISON: Sara.Gagne-Holmes@Maine.gov.