**State of Maine: Notice of Agency Rulemaking – August 16, 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- 001 - Department of Agriculture, Conservation and Forestry (DACF)**

CHAPTER NUMBER AND TITLE: **Ch.** **266**, Hemlock Woolly Adelgid Quarantine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-155**

**BRIEF SUMMARY**: This proposed rule modifies the existing Hemlock Woolly Adelgid quarantine by extending it to additional counties and Minor Civil Divisions in southern Maine.

**DETAILED SUMMARY**:This proposed rule modifies the existing Hemlock Woolly Adelgid quarantine by extending it to additional counties and Minor Civil Divisions in southern Maine. If this rule is adopted as is, the quarantined areas will be expanded north and east. See map at <https://www.maine.gov/dacf/mfs/forest_health/quarantine_information.html#hwa>.

A copy of the rule can be obtained on the DACF Horticulture Program website at <https://www.maine.gov/dacf/mfs/forest_health/quarantine_information.html#hwa>, by emailing Gary.Fish@Maine.gov, or by calling Gary Fish at (207) 287-7545.

**PUBLIC HEARINGS:**

September 6, 2023 - 10:00 a.m., Maine Forest Service, Bolton Hill Regional Office, 2870 N. Belfast Avenue, Augusta, ME

September 6, 2023, 10:00 a.m., Maine Forest Service Regional Office, 87 Airport Road, Old Town, ME

*There will also be a virtual option using the Microsoft Teams platform.*

COMMENT DEADLINE: 5:00 p.m. - September 22, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Gary Fish, State Horticulturist - DACF, 28 State House Station, Augusta, ME 04333-0028. Telephone: (207) 287-7545. Fax: (207) 287-7548. Email: Gary.Fish@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None expected.

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS Ch. 409 §§ 2301-2303

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

HWA QUARANTINE WEBSITE: <https://www.maine.gov/dacf/mfs/forest_health/quarantine_information.html#hwa>

MAINE FOREST SERVICE WEBSITE: <https://www.maine.gov/dacf/mfs/>.

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

AGENCY: **01- 001 - Department of Agriculture, Conservation and Forestry (DACF)**

CHAPTER NUMBER AND TITLE: **Ch.** **272**, European Larch Canker Quarantine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-156**

**BRIEF SUMMARY**: This proposed rule extends a state quarantine against the European larch canker to prevent its movement from Hancock, Knox, Lincoln, Sagadahoc, and Waldo Counties and parts of Androscoggin, Cumberland, Penobscot, and Washington counties to other parts of the State to protect Maine's forest and landscape tree resources. The European larch canker is federally regulated, and this rule fulfills the requirement that Maine must have a similar state quarantine in place because the state is partially regulated for European larch canker.

**DETAILED SUMMARY**:This proposed rule extends a state quarantine against the European larch canker to prevent its movement from Hancock, Knox, Lincoln, Sagadahoc, and Waldo Counties and parts of Androscoggin, Cumberland, Penobscot, and Washington counties to other parts of the State to protect Maine's forest and landscape tree resources. The European larch canker is federally regulated, and this rule fulfills the requirement that Maine must have a similar state quarantine in place because the state is partially regulated for European larch canker.

A copy of the proposed rule can be obtained on the DACF emerald ash borer website at <https://www.maine.gov/dacf/mfs/forest_health/quarantine_information.html#elc>, by emailing Gary.Fish@Maine.gov or by calling Gary Fish at (207) 287-7545.

**PUBLIC HEARINGS:**

September 6, 2023 - 10:00 a.m., Maine Forest Service, Bolton Hill Regional Office, 2870 N. Belfast Avenue, Augusta, ME

September 6, 2023 - 10:00 a.m., Maine Forest Service Regional Office, 87 Airport Road, Old Town, ME

*There will also be a virtual option using the Microsoft Teams platform.*

COMMENT DEADLINE: 5:00 p.m. September 22, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Gary Fish, State Horticulturist - DACF, 28 State House Station, Augusta, ME 04333-0028. Telephone: (207) 287-7545. Fax: (207) 287-7548. Email: Gary.Fish@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None expected.

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS Ch. 409 §§ 2301-2303

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

ELC QUARANTINE WEBSITE: <https://www.maine.gov/dacf/mfs/forest_health/quarantine_information.html#elc>.

MAINE FOREST SERVICE WEBSITE: <https://www.maine.gov/dacf/mfs/>.

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

AGENCY: **01- 001 - Department of Agriculture, Conservation and Forestry (DACF)**

CHAPTER NUMBER AND TITLE: **Ch. 275**, Emerald Ash Borer Quarantine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P157**

**BRIEF SUMMARY**: This chapter establishes a quarantine against the Emerald Ash Borer (*Agrilus planipennis*) (EAB) to prevent its movement to uninfested parts of the State to protect Maine's forest and timber resources. This proposal extends the quarantined area in the Northern Aroostook County area and into multiple new counties in southern Maine. These measures help protect over 60% of the ash resource that is still outside the current quarantine areas of Maine.

**DETAILED SUMMARY:** This proposal extends the quarantined area in the Northern Aroostook County area and into multiple new counties in southern Maine. These measures help protect over 60% of the ash resource that is still outside the current quarantine areas of Maine.

If this rule is adopted as is, the quarantined areas will include northeastern Aroostook County, southern Franklin, Penobscot, Piscataquis, and Somerset Counties, most of Oxford County, and all of Androscoggin. Cumberland, Knox, Lincoln, Sagadahoc, Waldo, and York Counties It will also regulate any potentially infested materials proposed for transport or shipment from outside of Maine into uninfested portions of the State.

A copy of the proposed rule can be obtained on the DACF emerald ash borer website at <https://www.maine.gov/dacf/php/caps/EAB/index.shtml>, by emailing gary.fish@maine.gov or by calling Gary Fish at (207) 287-7545.

**PUBLIC HEARINGS**:

September 6, 2023 - 10:00 a.m., Maine Forest Service, Bolton Hill Regional Office, 2870 N. Belfast Ave, Augusta, ME

September 6, 2023, 10:00 a.m., Maine Forest Service Regional Office, 87 Airport Road, Old Town, ME.

*There will also be a virtual option using the Microsoft Teams platform.*

COMMENT DEADLINE: 5:00 p.m. September 22, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Gary Fish, State Horticulturist, DACF, 28 State House Station, Augusta, ME 04333-0028. Telephone (287) 7545. Fax: (207) 287-7548. Email: Gary.Fish@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None expected.

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS Ch. 409 §§ 2301-2303

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

EAB QUARANTINE WEBSITE: <https://www.maine.gov/dacf/php/caps/EAB/index.shtml>.

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

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services - Division of Policy**

CHAPTER NUMBERS AND TITLES:

**Ch. 101**, MaineCare Benefits Manual:

**Ch. II Section 43**, Hospice Services

**Ch. III Section 43**, Allowances for Hospice Services

PROPOSED RULE NUMBERS: **2023-P158, P159**

CONCISE SUMMARY: This rulemaking proposes the following changes in order to comply with various laws and add clarity.

**Chapter II Rule Proposed Changes:**

**1.** Adds a requirement for Electronic Visit Verification (“EVV”). This has been approved by CMS. The Department proposes that this provider requirement be effective on January 1, 2024, in order to give providers adequate notice and time to comply.

**2.** Amends the definition of “Attending Physician” to include nurse practitioners and physician assistants. This is consistent with Section 51006 of the *Bipartisan Budget Act of 2018* (PL 115-123), as codified in 42 USC §1395x(dd)(3)(B), the Medicare program.

**3.** Adds a definition for the term “Benefit Period” which appears multiple times throughout this rule.

**4.** Section 43.07-5 (Payment for Inpatient care): Changes the date by which Hospice providers submit inpatient data to the Department, upon Department request, from January 1st to October 1st, following the end of the period ending September 30th of the previous year, in keeping with the federal fiscal year.

**5.** Adds Opioid Health Home Services to the list of services that may be continued after the election of hospice.

**6.** Makes minor technical edits to improve the clarity of the rule.

**7.** Adds a new section – Allowances for Hospice Services – which is largely moved from the Ch. III rule, which is being repealed.

**Chapter III Rule Proposed Changes:**

The Department proposes to repeal Ch. III, and to move the Ch. III columns describing the Revenue Code, HCPC Code and Description of Services to the Ch. II rule. The Department proposes to delete the column with the specific reimbursement rate from the rule, and will post the specific reimbursement rates on the MaineCare Fee Provider Schedule which is posted on the Department’s website, as authorized by 22 MRS Sec. 3173-J(7).

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

**PUBLIC HEARING**: September 5, 2025 - 01:00 p.m. Eastern Time (US and Canada). *The Department has determined that its public hearing will be hybrid, conducted both in-person and remotely, via Zoom.*

*Zoom Meeting link:* [*https://mainestate.zoom.us/j/86850235189*](https://mainestate.zoom.us/j/86850235189)

*Meeting ID: 868 5023 5189*

*One tap mobile: 1-646-931-3860*

Find your local number: <https://mainestate.zoom.us/u/kbcQF4SzvH>

*In addition to the public hearing, individuals may submit written comments to DHHS by the date listed in this notice*.

DEADLINE FOR COMMENTS: Comments must be received by 11:59 p.m. on Friday, September 15, 2023.

AGENCY CONTACT PERSON: Julieanna Scott, Comprehensive Health Planner II, Office of MaineCare Services, Capitol Street - 11 State House Station, Augusta, Maine 04333-0011

TELEPHONE: (207) 287-2286. Fax: (207) 287-6106. TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES: The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

CONTACT PERSON FOR SMALL BUSINESS INFORMATION: N/A

STATUTORY AUTHORITY: 22 MRS §§ 42, 3173; 42 USC §1396b(l); 42 USC §1395x(dd)

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

OMS WEBSITE: <https://www.maine.gov/dhhs/oms/>.

OMS RULEMAKING LIAISON: Jennifer.Patterson@Maine.gov.

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

DHHS RULEMAKING LIAISON: Emily.A.Cathcart@Maine.gov

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office for Family Independence (OFI)**

CHAPTER NUMBER AND TITLE: **Ch. 323**, General Assistance Manual, **Section IV**, Eligibility: **GA Rule #25**, Recovery Residence Participation

PROPOSED RULE NUMBER: **2023-P160**

BRIEF SUMMARY: The purpose of this rule is to update the *General Assistance (GA) Program Manual*, Section IV to provide clarity and align this manual with Public Law 2023 Ch. 133. The Department proposes amending Section IV(O), “Recovery Residence”, to clarify that GA payments may be issued to a managing operator of a certified recovery residence.

See <http://www.maine.gov/dhhs/about/rulemaking> for rules and related rulemaking documents.

PUBLIC HEARING: No public hearing is scheduled.

COMMENT DEADLINE: Monday, September 18, 2023, at 5:00 p.m. EST. *Written public comments may be submitted via the link at* [*https://www.maine.gov/dhhs/about/rulemaking*](https://www.maine.gov/dhhs/about/rulemaking).

CONTACT PERSON FOR THIS FILING: Sara Denson, General Assistance Program Manager, Department of Health and Human Services - Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4193. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Sara.Denson@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1), 4301(8)(B), 4301(11-A)

OFI WEBSITE: [https://www.maine.gov/dhhs/ofi](https://www.maine.gov/dhhs/ofi/arules).

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov.

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

DHHS RULEMAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: **15-215** - Department of Defense, Veterans and Emergency Management, **Maine Bureau of Veterans’ Services**

CHAPTER NUMBER AND TITLE: **Ch. 3** *(New)*, Expanded Burial Eligibility for the Maine Veterans’ Memorial Cemetery System

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P161**

**BRIEF SUMMARY**: This rule governs burial eligibility in the Maine Veterans Memorial Cemetery, pursuant to 37-B MRS §504-B-1, enacted by PL 2022 Ch. 593.

**DETAILED SUMMARY**: The Maine Veterans Memorial Cemetery System is updating its eligibility rules for burial, expanding the criteria for interment. Previously, only Veterans or Service Members of the National Guard and Reserves who met certain criteria were allowed to be buried in the cemetery system. However, under the proposed rules, National Guard and Reserve Service Members and Veterans, as well as their family members, would be eligible for burial. The rules specify the eligibility criteria, including members or former members of the National Guard, State Military Forces, and the Reserve Components of the US Armed Forces, and those who died while serving in the Active Guard Reserve, along with their spouses and minor children. Additionally, the rules outline the military service requirements for eligibility and the State's operational expenses for headstones and markers. This eligibility expansion follows the federal 'Burial Equity for Guards and Reserves Act of 2021,' which authorizes National Guard and Reserve Service Members to be buried in state veterans' cemeteries at the discretion of individual states, even if they did not meet the qualifying service period. LD 619, also known as 'An Act Regarding Eligibility for the Maine Veterans' Memorial Cemetery System,' granted National Guard and Reserve Service Members the right to be interred in the Maine Veterans' Memorial Cemetery System at the state level and gave the department authority to develop necessary implementation rules.

**PUBLIC HEARING**: None.

COMMENT DEADLINE: September 15, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Steven Lanning, Deputy Director, Maine Bureau of Veterans’ Services, 117 State House Station, Augusta, Maine 04333. Telephone: (207) 287-7020. Fax: (207) 626-4471. Email: Steven.D.Lanning@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 37-B MRS §504 sub-§4 ¶B-1 and LD 619 -“An Act Regarding Edibility for the Maine Veterans’ Memorial Cemetery”.

<https://legislature.maine.gov/statutes/37-B/title37-B.pdf> or <http://www.mainelegislature.org/legis/statutes/37-B/title37-Bsec504.html>.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: ‘Burial Equity for Guards and Reserves Act of 2021’ (<https://www.congress.gov/bill/117th-congress/house-bill/3944>), and LD 619 ‘An Act Regarding Eligibility for in the Maine Veterans’ Memorial Cemetery System’ (<http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=619&PID=1456&snum=130>)

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

DEPARTMENT RULEMAKING LIAISON: Scott.A.Young@Maine.gov.

AGENCY: **18-691**, Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Rules for the Administration of the Adult Use Cannabis Program

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2023-P162**

BRJEF SUMMARY: This rulemaking updates the definitions, fees and other administrative requirements necessary to implement statutory changes made to the *Cannabis Legalization Act*, 28-B MRS, including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396, specifically changes to the authorized activity of tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms "permitted premises for a specified event," "specified event," and "specified event permit"; amendments to the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events - including repealing the prohibition on the sale of "smokable" cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS's approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for "good cause"; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the *Adult Use Cannabis Program Rule*, 18-691 CMR Ch. 1, once this rule, and 18-691 CMR Ch. 20, 30 and 40 are finally adopted.

PUBLIC HEARING*:* September 6, 2023 - 10:00 a.m.; Office of Cannabis Policy, 19 Union Street., Augusta, Maine- 3rd Floor, Room 325.

COMMENT DEADLINE: Sunday, September 17, 2023 at 11 :59 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON*:* Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Fax: (207) 287-2671. Email: Gabi.Pierce@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES*:* None

STATUTORY AUTHORITY FOR THIS RULE: Title 28-B Ch. 1 *(Cannabis Legalization Act)*, including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED*:* N/A

AGENCY WEBSITE: [h](http://h)[ttps://www.maine.gov/dafs/ocp](http://ttps://www.maine.gov/dafs/ocp)/

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-691** – Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 20**, Rules for the Licensure of Adult Use Cannabis Establishments

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER*:* **2023-P163**

BRIEF SUMMARY: This rulemaking updates the licensing requirements necessary to implement statutory changes made to the *Cannabis Legalization Act*, 28-B MRS, including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396, specifically changes to the authorized activity of tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms "permitted premises for a specified event," "specified event," and "specified event permit"; amendments to the application requirements for the issuance of a perm it for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events including repealing the prohibition on the sale of "smokable" cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS 's approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for "good cause"; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the *Adult Use Cannabis Program Rule,* 18-691 CMR Ch. 1, once this rule, and 18-691 CMR Ch. 10, 30 and 40 are finally adopted.

PUBLIC HEARING: September 6, 2023 – 10 a.m., Office of Cannabis Policy, 19 Union Street, Augusta, ME – 3rd Floor, Room 325

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / OCP RULEMAKING LIAISON: Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Fax: (207) 287-2671. Email: Gabi.Pierce@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES*:* None

STATUTORY AUTHORITY FOR THIS RULE: Title 28-B Ch. 1 *(Cannabis Legalization Act)*.

AGENCY WEBSITE: [h](http://h)[ttps://www.maine.gov/dafs/ocp](http://ttps://www.maine.gov/dafs/ocp)/

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-691** – Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 30**, Compliance Rules for Adult Use Cannabis Establishments

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2023-P164**

**BRIEF SUMMARY**: This rulemaking updates the compliance requirements necessary to implement statutory changes made to the *Cannabis Legalization Act*, 28-B MRS, including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396, specifically changes to the authorized activity of tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms "permitted premises for a specified event," "specified event," and "specified event permit"; amendments to the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events -including repealing the prohibition on the sale of "smokable" cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS's approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for "good cause"; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the *Adult Use Cannabis Program Rule*, 18-691 CMR Ch. 1, once this rule, and 18-691 CMR Ch. 10, 20 and 40 are finally adopted.

PUBLIC HEARING:September 6, 2023 - 10:00 a.m.; Office of Cannabis Policy, 19 Union Street., Augusta, Maine - 3rd Floor, Room 325.

COMMENT DEADLINE: Sunday, September 17, 2023 at 11:59 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / OCP RULEMAKING LIAISON: Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Fax: (207) 287-2671. Email: Gabi.Pierce@Maine.gov.

FINANCIAL IMPACT ON MUNICI PALITIES OR COUNTIES*:* None

STATUTORY AUTHORITY FOR THIS RULE: Title 28-B, Chapter 1 (*Cannabis Legalization Act*), including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED*:* N/A

AGENCY WEBSITE: <https://www.maine.gov/dafs/ocp/>.

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-691**, Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 40**, Rules for the Testing of Adult Use Cannabis

TYPE OF RULE : Routine Technical

PROPOSED RULE NUMBER: **2023-P165**

BRIEF SUMMARY: This rulemaking updates the requirements for the mandatory testing of adult use cannabis and cannabis products necessary to implement statutory changes made to the *Cannabis Legalization Act*, 28-B MRS, including PL 2023 Ch. 6, Emergency (Signed March 15, 2023), and PL 2023 Ch. 408, PL 2023 Ch. 396, specifically changes to the authorized activity of tier l, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms "permitted premises for a specified event, specified event," and "specified event permit"; amendments to the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events including repealing the prohibition on the sale of "smokable" cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS's approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for "good cause"; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the *Adult Use Cannabis Program Rule*, 18-691 CMR Ch. 1, once this rule, and 18-691 CMR Ch. 10, 20 and 30 are finally adopted.

PUBLIC HEARING: September 6, 2023 - 10:00 a.m.; Office of Cannabis Policy, 19 Union Street„ Augusta, Maine, 3rd Floor, Room 325.

COMMENT DEADLINE: Sunday, September 17, 2023 at 11:59 p.m.

OCP RULEMAKING LIAISON: Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Fax: (207) 287-2671. Email: Gabi.Pierce@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 28-B Ch. 1 (*Cannabis Legalization Act*)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/dafs/ocp/>.

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **02-392** - Department of Professional and Financial Regulation (PFR), **Maine Board of Pharmacy**

CHAPTER NUMBERS AND TITLES:

**Ch. 1,** Definitions *(amend)*

**Ch. 13**, Operation of Retail Pharmacies *(amend)*

**Ch. 25**, Patient Counseling *(amend)*

**Ch. 36**, Licensure of Opioid Treatment Programs *(repeal)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2023-P166** *to* **P169**

BRIEF SUMMARY: The rulemaking would repeal Board of Pharmacy rules that establish licensure of and regulate Opioid Treatment Programs. Opioid Treatment Programs are currently regulated at both the federal and state level – certified by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration and licensed by the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services.

PUBLIC HEARING: N/A. *Pursuant to 5 MRS §8052(1) and §8053(3)(B), interested persons may request a public hearing by submitting a request in writing to the contact person for this filing.*

COMMENT DEADLINE: Friday, September 22, 2023 - 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Jeri Betts, Regulatory Board Manager, 35 State House Station, Augusta, ME 04333-0035. Telephone: (207) 624-8625. TTY users call Maine Relay 711. Email: Geraldine.L.Betts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 13721(2)(A) and 13751(3)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

BOARD WEBSITE: https://[www.maine.gov/pfr/professionallicensing/professions/board-pharmacy](http://www.maine.gov/pfr/professionallicensing/professions/board-pharmacy).

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

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2023-P170**

CHAPTER NUMBER AND TITLE: **Ch. 270**, Uniform Reporting System For Quality Data Sets *(Major Substantive)*

BRIEF SUMMARY: The focus of the proposed changes to Ch. 270 include, adding a new measure for Maine nursing facilities under healthcare associated infections (HAI); adding a new measure for Maine hospitals for antimicrobial resistance (AR), and for both types of facilities a new requirement to report a subset of NHSN’s direct patient identifiers that are non-required fields in NHSN. This information will inform analysis in health inequities.

PUBLIC HEARING: September 7, 2023 - 9:00 a.m. **(Remote only)\*\***

**Please note:** This public hearing will be held virtually. To attend via zoom, select the link below or call the number provided to attend via conference call.

**Zoom meeting link:**
<https://mainestate.zoom.us/j/87299697425?pwd=MUtHOFZHenUweXpFdFJ2LzMzajQ1Zz09>

**Call in number:** 1 309 205 3325 US

**Meeting ID:** 872 9969 7425

COMMENT DEADLINE: September 18, 2023, at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Debra Dodge, Health Planner, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333, Telephone (207) 287-6724. Fax: (207) 287-6732. Email: Debra.J.Dodge@Maine.gov.

This rule will not have a fiscal impact on municipalities, counties or small businesses. Copies of these proposed rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties, or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §8704 sub-§4, §8708-A, §8712, §8761, and 24-A MRS §§ 6951(2),(3)

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

MHDO WEBSITE: <https://mhdo.maine.gov/>.

MHDO RULEMAKING LIAISON: Debra.J.Dodge@Maine.gov.

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 2, Aquaculture Lease Regulations**

ADOPTED RULE NUMBER: **2023-124**

CONCISE SUMMARY: This rule increases the application fee for experimental leases from $100 to $750 and clarifies that this fee would also apply to experimental leases eligible for renewal. The rule also specifies that an experimental application, like a standard, must be one contiguous tract unless it meets exceptions already specified in rule. It requires that Limited Purpose Aquaculture (LPA) renewal applications be received by November 30 each year and removes the provision allowing for mid-term LPA amendments. The rule also specifies that stock for LPA sites must come from the wild, hatchery, or same health zone. Any person who applies for an LPA for seed in an area classified by DMR as prohibited, restricted, or conditionally restricted needs to hold a lease or own a company that holds a lease. The rule removes existing requirements to mark proposed lease areas in advance of public hearings. The rule also provides for contaminant reduction or other special studies, including fees, that may be necessary to ensure the safety of product for human consumption. The rule also makes several updates to existing sections for improved clarity, consistent with statutory changes, and enforcement.

EFFECTIVE DATE: August 13, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 25**, Lobster and Crab: **25.04**, Lobster Trawl Limits (Technical corrections)

CONCISE SUMMARY: This rulemaking makes a technical correction that removes a USCG buoy as a boundary marker due to this buoy moving locations. The coordinates of its former location remain as a boundary marker for the purpose of this regulation.

ADOPTED RULE NUMBER: **2023-125**

EFFECTIVE DATE: August 13, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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

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

ADOPTED RULE NUMBER: **2023-126**

CHAPTER NUMBER AND TITLE: **Ch. 26**, Sea Urchins: 2023-2024 Season

CONCISE SUMMARY: This regulation establishes open harvest days and tote limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 for the 2023-2024 season. For Zone 1, a season is established for divers, trappers, rakers and draggers from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2022-2023 season. For Zone 1, the daily tote limit is nine (9), the same as in the 2022-2023 season. For

Zone 2, 40-day seasons are established for divers, trappers, rakers and draggers, from which harvesters may only fish up to 30 days of their choosing, the same number of fishing days and opportunity days as the 2022-2023 season. For the Whiting & Dennys Bays Limited Access Area in Zone 2, a l5-day season is established for Zone 2 divers, trappers, rakers and draggers in 2023-2024. For Zone 2, the daily tote limit is six (6), the same as in the 2022-2023 season.

EFFECTIVE DATE: August 20, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 42**, Striped Bass (Changes to Striped Bass Slot Limit)

ADOPTED RULE NUMBER: **2023-127**

CONCISE SUMMARY: On May 18, 2023, DMR adopted an emergency rule to come into compliance with the Atlantic Striped Bass Fishery Management Plan at the Atlantic States Marine Fisheries Commission (ASMFC). DMR is adopting the change to the striped bass slot limit as part of its regular rules. This rule implements a 31-inch maximum size limit in the striped bass recreational fishery. As a result, it is unlawful to take or possess striped bass unless they are between 28-inches and 31-inches, inclusive. This action ensures continued compliance with the ASMFC fishery management plan.

EFFECTIVE DATE: August 13, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 55**, Gear Restrictions: **55.99**, Fishing in the Saco River

ADOPTED RULE NUMBER: **2023-128**

CONCISE SUMMARY: On June 10, 2023, DMR adopted an emergency rule to expand an existing area on the Saco River closed to fishing. DMR is adopting this same rule as regular rulemaking. Consistent with the emergency rule, this rule modifies Maine’s Gear Restriction Regulation, Ch. 55.99, to close the waters of the Saco River upstream of the Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, to the head of tide.

This is necessary to prevent high levels of catch and release mortality observed this season and which negatively impacts the striped bass resource.

EFFECTIVE DATE: August 13, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 75**, Protected Resources: Definitions (Technical Correction)

CONCISE SUMMARY: This rulemaking makes a technical correction that removes three USCG buoys as boundary markers due to these buoys either being “de-established” or moving locations. The coordinates of their former locations remain as boundary markers for the purpose of the State of Maine Exemption Line regulation.

ADOPTED RULE NUMBER: **2023-129**

EFFECTIVE DATE: August 13, 2023

DMR CONTACT PERSON / RULEMAKING LIAISON: Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6553. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

DMR RULEMAKING WEBSITE: <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

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