**State of Maine: Notice of Agency Rulemaking – September 20, 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

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

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P157** *(2nd Publication)*

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. Due to the omission of Kennebec County in the original proposal, the Department is extending the comment period an additional 30 days.

PUBLIC HEARING: No additional public hearing.

COMMENT DEADLINE: 5:00 PM October 23, 2023

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

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:  None expected

STATUTORY AUTHORITY FOR THIS RULE: 7 M.R.S.A., Chapter 409, § 2301-2303

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov

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

CHAPTER NUMBER AND TITLE: **Ch. 3,** Eligibility Requirements for Specialized Case Types

TYPE OF RULE Routine Technical

PROPOSED RULE NUMBER: **2023-P201**

BRIEF SUMMARY: This proposed rule amendment would amend the eligibility requirements for an attorney rostered with the Commission to receive assignments in specialized case types.  This amendment adds some case types to the list of specialized case types and amends eligibility and application requirements for all specialized case types.

PUBLIC HEARING: October 11, 2023, 1:00 PM via Zoom and Room 300, Cross Building, Augusta

COMMENT DEADLINE: October 23, 2023

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT INFORMATION: Jim Billings, Executive Director, MCILS, 154 State House Station, Augusta, ME 04333, (T) 207-287-3254, (F) 207-287-3294, Jim.Billings@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 4 M.R.S.A. §§ 1804(2)(B), (2)(G), (3)(E), and (4)(D)

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jim.Billings@Maine.gov

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

CHAPTER NUMBER AND TITLE: **Ch. 301,** Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P202**

BRIEF SUMMARY: This proposed rule amendment would provide a graduated penalty structure for vouchers submitted after 90 days of the triggering date. The rule also updates the trigger amounts for presumptive review to be in line with the recent increase to the hourly rate paid to assigned counsel.

PUBLIC HEARING: October 11, 2023, 1:00 PM via Zoom and Room 300, Cross Building, Augusta.

COMMENT DEADLINE: October 23, 2023

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT INFORMATION:

Jim Billings, Executive Director, MCILS, 154 State House Station, Augusta, ME 04333, (T) 207-287-3254, (F) 207-287-3294, Jim.Billings@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 4 M.R.S.A. §§ 1804(2)(F), (3)(B), and (4)(D)

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jim.Billings@Maine.gov

AGENCY: **16-163** – Department of Public Safety, **Maine Emergency Medical Services**

CHAPTER NUMBER AND TITLE: **Ch. 21,** Immunization Requirements

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P203**

BRIEF SUMMARY: The Maine Board of Emergency Medical Services is proposing to amend its current rules regarding Immunization Requirements removing the requirement for Covered Emergency Medical Services Persons to be immunized against COVID-19, while adding additional diseases to the list of conditions covered by this chapter in alignment with U.S. Department of Health and Human Services recommendations. This proposed amendment also adds an implementation timeline for modified reporting and recordkeeping requirements and adds the option to decline immunization for seasonal influenza by agreeing on an annual basis to wear at minimum a surgical mask while providing direct patient care through the months of October to May.

PUBLIC HEARING: None.

A hearing may be requested by the petition of no less than 5 interested persons through the submission of such petition in writing to Maine EMS, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333.

Comments on the proposed rules may be submitted to the Maine EMS no later than 11:59 p.m., October 20, 2023.

Interested parties may submit comments to Maine EMS in the following manners:

\* Navigating to <https://www.maine.gov/ems/> and filling out our “Maine EMS Rules Public Comment Submission” form (Preferred)

\* By email to: rulemaking.maineems@maine.gov

\* In writing: Send comments to Maine Emergency Medical Services Attn.: Rulemaking, 152 State House Station, Augusta, ME 0433-0152

COMMENT DEADLINE: October 20, 2023, at 11:59 P.M.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT INFORMATION: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152; 207-626-3864 – Phone; 207-287-3659 – TTY; 207-287-6251 – Fax; Jason.J.Cooney@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §81-A, 32 M.R.S. §84(1)(A), and 32 M.R.S. §88(2)(B)

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: J.Sam.Hurley@Maine.gov

AGENCY: **94-391 - Maine State Board of Property Tax Review**

CHAPTER NUMBER AND TITLE: **Ch. 1,** Rules of Practice and Procedure in Appeals Before the State Board of Property Tax Review

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P204**

BRIEF SUMMARY: Improvements to the hearing process designed to improve the efficiency of the operations of our board and streamline the procedures for all stakeholders.

PUBLIC HEARING: None

COMMENT DEADLINE: October 23, 2023

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS CONTACT INFORMATION:

Phil St. Onge, Executive Director, Maine State Board of Property Tax Review, 49 State House Station, 19 Elkins Lane, Augusta, ME 04330-004; PHONE: 207-592-5074;

Phil.St.Onge@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 M.R.S. §271(2)(C)

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

AGENCY WEBSITE: <https://www.maine.gov/dafs/boardproptax/index.shtml>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Phil.St.Onge@Maine.gov

**ADOPTIONS**

AGENCY: **02-288** - Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Maine State Board of Licensure for Architects, Landscape Architects and Interior Designers**

CHAPTER NUMBER AND TITLE:

**Repeal and Replace:**

**Ch. 10,** Definitions

**Ch. 12,** Licensure of Architects

**Ch. 13,** Licensure of Landscape Architects

**Ch.17,** Grounds for Disciplinary Action

**Ch. 18,** Documentation

**Repeal:**

**Ch. 15,** Application for Licensure

**Ch. 19,** Incorporation by Reference

ADOPTED RULE NUMBER: **2023-150 to 2023-156**

CONCISE SUMMARY: The rulemaking repeals and replaces several chapters in order to update the board’s rules, including updating definitions, amending the pathways and qualifications for licensure for architects and landscape architects; and repeals chapters and relocates several sections of the current rules to other chapters.

EFFECTIVE DATE: **September 15, 2023**

AGENCY CONTACT PERSON:Catherine E, Pendergast, Board Administrator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine State Board of Licensure for Architects, Landscape Architects and Interior Designers, 35 State House Station, Augusta, ME 04333; PHONE: 207-624-8518, TTY users call Maine Relay 711; Email: Catherine.Pendergast@Maine.gov.

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-of-licensure-architects-landscape-architects-interior-designers>.

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

AGENCY: **02-658 -** Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Maine Fuel Board**

CHAPTER NUMBER AND TITLE:

**Repeal and Replace:**

**Ch. 1,** Definitions

**Ch. 2,** Advisory Rulings

**Ch. 3,** Categories and Responsibilities of Licensure

**Ch. 4,** Qualifications for Examination and Licensure

**Ch. 5,** Use of Other License Authorities

**Ch. 6,** Adoption of Standards

**Ch. 7,** Modification of Standards

**Ch. 8,** Installation of Oil Burning Equipment (with Appendix)

**Ch. 9,** Installation of Solid Fuel Burning Equipment

**Ch. 10,** Chimneys

**Ch. 11,** Installation of Waste Oil Appliances and Waste Oil Supply Tanks

**Ch. 12,** Permits for Aboveground and Underground Propane and Natural Gas Storage Facilities and Rooftop Installations

**Ch. 13,** Installation of Propane and Natural Gas Burning Equipment

**New:**

**Ch. 14,** Propane and Natural Gas Containers, Dispensers, and Piping (with Appendix)

ADOPTED RULE NUMBER: **2023-157 to 2023-170**

CONCISE SUMMARY: The principal reasons for this rulemaking are to update all of the Board’s rules to reflect statutory changes, to add clarity to the phrasing and structure of the rules, and to adopt updated codes and standards.

EFFECTIVE DATE: **September 16, 2023**

AGENCY CONTACT PERSON**:** Matthew Kaply, Board Administrator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333; PHONE: 207-624-8605, TTY users call Maine Relay 711; Email: Matthew.S.Kaply@Maine.gov

BOARD WEBSITE:

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

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

AGENCY: **90-590** - Maine Health Data Organization

CHAPTER NUMBER AND TITLE: **Ch. 100,** Enforcement Procedures *(Major Substantive)*

ADOPTED RULE NUMBER: **2023-171**

CONCISE SUMMARY:This rule change is necessary to align the enforcement requirements in Public Law 2021, Chapter 603 and in 90-590 C.M.R. Chapter 247, with the enforcement provisions described in 90-590 C.M.R. Chapter 100: Enforcement Procedures. These changes add a new provision under Section 3. Penalties; fines, for a payor that fails to file supplemental health care data sets and/or to meet the standards for data as defined in 90-590 Chapter 247. Additionally, the definitions for manufacturer and wholesale drug distributor have been updated to align the definitions in 22 MRS Chapter 1683 and 90-590 C.M.R. Chapter 570.

Copies of these rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call 287-6722.

EFFECTIVE DATE: **October 14, 2023**

CONTACT PERSON: Karynlee Harrington, Executive Director, Maine Health Data Organization, 151 Capitol Street – 102 State House Station, Augusta, ME 04333-0102. TELEPHONE: (207) 287-6722. Email: Karynlee.Harrington@Maine.gov.

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

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

AGENCY: **10-144** - Department of Health and Human Services, **Maine Center for Disease Control and Prevention**

CHAPTER NUMBER AND TITLE: **Ch. 241,** Subsurface Wastewater Disposal Rule

ADOPTED RULE NUMBER: **2023-172**

CONCISE SUMMARY:The Maine CDC is adopting amendments to its Subsurface Wastewater Disposal Rule, which describes requirements for the subsurface wastewater permitting processes conducted by municipalities and overseen by Maine CDC. More specifically, this rule governs the siting, design, construction and inspection of subsurface wastewater disposal systems, to protect the health, safety and welfare of the residents and visitors of Maine. Adopted amendments include clarifying subsurface wastewater disposal requirements, adding new definitions, rearranging and adding new sections to the rule, and adjusting formatting elements, to align with Maine CDC rulemaking conventions.

Maine CDC amended requirements for how long fill material must be in place for both inside and outside of a shoreland zone for septic systems to be safely installed. For outside the shoreland zone, Maine CDC changed the required age of fill material from prior to October 1, 1995 to at least 20 years. For fill material within the shoreland zone, Maine CDC replaced the requirement for fill material to be in place prior to July 1, 1974 and changed it ultimately to at least 40 years. Although Maine CDC had originally proposed to require the soil fill to be in place at least 20 years, a number of comments opposed the change. Maine CDC then proposed to increase the requirement of soil material to be in place for at least 40 years and advertised a second comment period. After reviewing all comments, evaluating all factors relevant to its determination, Maine CDC ultimately determined that the requirement for fill material to be 40 years old, a 100% increase from the original proposed change, was a reasonable point to adopt the change at.

This adopted rule also includes an enhanced section on requirements for seasonal dwelling units converting into year-round residences. And finally, Maine CDC added a section that establishes the minimum recommended standards for inspectors who conduct subsurface wastewater disposal system inspections, in order to promote reliable and consistent inspections when properties in Maine are transferred, to ensure higher environmental sanitation and safety levels and comply with Maine law (22 MRS § 42 (3-A)), and municipal planning, zoning, and land use control regulations.

EFFECTIVE DATE: **September 23, 2023**

AGENCY CONTACT PERSON:Andrew Hardy, 11 SHS - 286 Water Street, Augusta, ME 04333-0011; TELEPHONE:(207) 287-4490; E-MAIL:Andrew.Hardy@Maine.gov

AGENCY WEBSITE: <http://www.maine.gov/dhhs/mecdc/rules/>

MAINECDC RULEMAKING LIAISON: Tera.Pare@Maine.gov.
DHHS WEBSITE: <https://www.maine.gov/dhhs/>.
DHHS RULEMAKING LIAISON: Emily.A.Cathcart@Maine.gov.