**State of Maine: Notice of Agency Rulemaking – December 13, 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 NUMBERS AND TITLES: **Ch. 400,** Administrative Cost Grants; **Ch. 401,** Income Replacement; **Ch. 402,** Support for No-Cost Technical Assistance; **Ch. 403,** Infrastructure Investment Grants; **Ch. 404,** Assistance Obtaining New Loans; **Ch. 405,** Real Estate Purchases; **Ch. 406,** Competitive Research Grants; **Ch. 407,** Financial Support for Blood Serum Testing; **Ch. 408,** Financial Support for Mental Health Care

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER : **2023-P244 to 2023-P252** *(Second publication – comment deadline extension)*

DETAILED SUMMARY:These nine proposed rules are intended to implement certain strategies identified in the *Plan for Administration of the Fund to Address PFAS Contamination* (“PFAS Fund Plan”). The PFAS Fund Plan was developed through a public planning process to prioritize funding and implementation of the $60 million PFAS Fund created by Governor Mills with bipartisan legislative support in response to the discovery of multiple farms in Maine contaminated with per- and polyfluoroalkyl substances (PFAS).

The proposed rules establish, inter alia, the eligibility criteria, administrative procedures, evaluation criteria, and appeals procedures for the following programs:

1. **Ch. 400, Administrative Cost Grants.** Commercial farms that have Department of Agriculture, Conservation and Forestry (DACF) confirmed unsafe levels of perfluoroalkyl and polyfluoroalkyl substances (PFAS) may apply to DACF for a one-time administrative grant. This grant is intended to compensate commercial farms for time expended on activities that are common to most farms upon the initial discovery of PFAS contamination, such as time spent with DACF field staff, time spent strategizing how to respond, and time spent communicating with customers.
2. **Ch. 401, Income Replacement.** Commercial farms that have stopped selling some or all products due to perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination may apply to the Department of Agriculture, Conservation and Forestry (DACF) for up to two years of lost income, adjusted for inflation.
3. **Ch. 402, Support for No-Cost Technical Assistance.** Commercial farms that have Department of Agriculture, Conservation and Forestry (DACF) confirmed unsafe levels of perfluoroalkyl and polyfluoroalkyl substances (PFAS) may apply to DACF for no-cost technical assistance to help guide their response to the discovery of PFAS or to implement mitigation strategies. Eligible producers may consult, contract, or work with service providers to obtain expert advice, estimates, drawings, plans, research, and technical or professional assistance related to modifying their operations in response to PFAS contamination.
4. **Ch. 403, Infrastructure Investment Grants.** Commercial farms that have Department of Agriculture, Conservation and Forestry (DACF) confirmed unsafe levels of perfluoroalkyl and polyfluoroalkyl substances (PFAS) may apply to DACF for grant funding for infrastructure projects that will help the commercial farm transition to new production methods or new types of production.
5. **Ch. 404, Assistance Obtaining New Loans.** Commercial farms that have Department of Agriculture, Conservation and Forestry (DACF) confirmed unsafe levels of perfluoroalkyl and polyfluoroalkyl substances (PFAS) may apply to DACF for assistance covering the cost of obtaining a guaranteed loan, commercial loan insurance, or environmental site assessments required by a lending institution for new loans when a new loan is necessitated by the discovery of PFAS contamination on the commercial farm and the new loan is related to the farm business.
6. **Ch. 405, Real Estate Purchases.** The Department of Agriculture, Conservation and Forestry (DACF) may purchase agricultural land contaminated by perfluoroalkyl and polyfluoroalkyl substances (PFAS) from commercial farms, along with appurtenant buildings, structures, and fixtures. DACF may purchase all or some of an eligible landowner’s real estate.
7. **Ch. 406, Competitive Research Grants.** The Department of Agriculture, Conservation and Forestry (DACF) hereby establishes the rules for a competitive grant program to fund research that will help commercial farmers make informed decisions about how to utilize agricultural property that has been impacted by perfluoroalkyl and polyfluoroalkyl substances (PFAS).
8. **Ch. 407, Financial Support for PFAS Blood Serum Testing.** The Fund to Address PFAS Contamination (PFAS Fund) may pay for costs not otherwise covered by health insurance for perfluoroalkyl and polyfluoroalkyl substances (PFAS) blood serum testing for persons who were exposed to PFAS through the land application of residuals in Maine.
9. **Ch. 408, Financial Support for Mental Health Care.** The Fund to Address PFAS Contamination (PFAS Fund) may pay for costs not otherwise covered by health insurance for mental health care for persons who were exposed to PFAS through the land application of residuals in Maine. Alternatively, the PFAS Fund may contract with mental health professionals to provide services to eligible individuals at no or low cost.

PUBLIC HEARING: Dec. 18, 2023, 1-4 pm, Deering 101, 90 Blossom Lane, Augusta, ME and via Zoom: <https://mainestate.zoom.us/webinar/register/WN_a_6xyqnLQoy88DqZus96_g> (preregistration required).

COMMENT DEADLINE: January 19, 2024 *(Comment deadline extended)*

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Beth Valentine, PFAS Fund Director, 22 State House Station, Augusta, ME 04333-0022, 207-313-0962, Beth.Valentine@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: The proposed rule is not expected to impose any cost on municipalities or counties. Notably, unlike private landowners, DACF will not pay property tax on PFAS-contaminated property it purchases. To avoid a loss of revenue to municipalities, DACF may pay an “in lieu of” fee (Ch. 405).

STATUTORY AUTHORITY FOR THIS RULE: 7 MRS Ch 10-D, §320-K - §320-L and PL 2021, Ch. 635.

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

AGENCY WEBSITE: [PFAS Fund Advisory Committee: Maine Department of Agriculture, Conservation and Forestry](https://www.maine.gov/dacf/about/commissioners/pfasfund/advisory-committee.shtml)

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

AGENCY: **16-227 –** Department of Public Safety, **Maine Criminal Justice Academy Board of Trustees**

CHAPTER NUMBER AND TITLE: **Ch. 5,** Training Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P263**

DETAILED SUMMARY: This proposed rule amends Chapter 5: Training Standards for the Department of Public Safety, Maine Criminal Justice Academy Board of Trustees.

The proposed rule:

1. Strikes section 3 and the referenced Specifications 3 and 3-A which were attached and incorporated in the original rule.
2. Creates section 3-A, which updates the rule to reflect the current Board of Trustees’ approved training standards for the Basic Corrections Training Program for adult corrections officers, including the curriculum, application procedures, certification, lapse of certification, and recertification.
3. Creates section 3-B, which updates the rule to implement the Board of Trustees’ approved training standards for the Juvenile Basic Corrections Training Program for juvenile corrections officers, including the curriculum, application procedures, certification, lapse of certification, and recertification.
4. Modifies section 5 by removing language related to corrections officer lapse of certification and recertification now covered under sections 3-A and 3-B.
5. Updates Specification 1 to reflect the current Board of Trustees approved passing score for tests within the Basic Law Enforcement Training Program.
6. Corrects minor typographical errors.

The proposed rule informs Maine Criminal Justice Academy staff and current and future law enforcement and corrections certificate applicants and certificate holders about the procedures for applying to attend training, training requirements, maintenance of certifications, and recertification.

PUBLIC HEARING: January 5, 2024 at 9:00 am, Maine Criminal Justice Academy, 15 Oak Grove Road, Vassalboro, ME 04989, room B165.

COMMENT DEADLINE: January 15, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Assistant Director Lincoln Ryder, Maine Criminal Justice Academy, 15 Oak Grove Road, Vassalboro, ME 04989. Phone: 207-877-8008, Fax: 207-877-8027. Email: Lincoln.E.Ryder@maine.gov

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

STATUTORY AUTHORITY FOR THIS RULE: 25 M.R.S. §2803-A(18)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: 25 M.R.S. §2804-D(1)

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Lincoln.E.Ryder@maine.gov

AGENCY: **16-227 –** Department of Public Safety, **Maine Criminal Justice Academy Board of Trustees**

CHAPTER NUMBER AND TITLE: Ch. 13, Minimum Standards for Mandatory Policy on Response to Domestic Abuse

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P264**

DETAILED SUMMARY:The proposed rule establishes the minimum standards for a mandatory written law enforcement agency policy on Response to Domestic Abuse required by 25 M.R.S. § 2803-B(1)(D), including:

1. A policy statement that recognizes domestic abuse as a serious crime against the individual and society.
2. A requirement that officers be familiar with the provisions of Maine statute relevant to Domestic Abuse.
3. Emergency Communication Specialist (ECS) procedures regarding the receipt and response to a call for service.
4. Complaint response procedures.
5. Agency responsibilities and procedures when a domestic abuse complaint involves a law enforcement officer, a family member of a law enforcement officer, or any employee of a law enforcement agency.
6. Agency responsibilities and procedures when any member of the law enforcement agency shows signs of experiencing or perpetrating domestic abuse.
7. Responsibility of an officer to determine who may be the predominant aggressor and take the appropriate enforcement action against that person.
8. Circumstances under which a warrantless arrest may occur.
9. Procedures for the administration of a validated, evidence-based domestic violence risk assessment and the conveyance of the results of that assessment to the bail commissioner and the relevant prosecutor.
10. A process to ensure that, when a person files multiple, separate complaints regarding the behavior of another person that may indicate a course of conduct constituting stalking under 17-A M.R.S. § 210-A, those complaints are reviewed together to determine if the other person has engaged in stalking under 17-A M.R.S. § 210-A.
11. Responsibilities of an officer when an arrest is not appropriate.
12. Responsibility of a responding officer to remain at the scene to protect the safety of persons in danger and to obtain medical assistance, if necessary, including in all cases in which a victim has been strangled.
13. Responsibility of an officer to provide written instructions to a victim concerning the victim’s right to obtain a protection from abuse order and the procedures involved.
14. Responsibility of an officer to provide the victim with instructions on how to contact the local domestic violence resource center and a brief description of their services, as well as information about a relevant culturally specific domestic violence organization in appropriate circumstances.
15. Requirement and procedures for an officer to meet with the victim within 48 hours of all domestic violence incidents to check on safety and well-being of the victim and ensure the defendant’s adherence with any bail conditions, protection orders, or other court orders.
16. A reporting process for detailed documentation of the incident and any charges.
17. Procedures to ensure expeditious service of both temporary and permanent protection from abuse orders.
18. Procedures to ensure that the serving officer make a good faith effort to determine whether the defendant possesses any firearms and to take any firearms that are in the defendant's possession in all cases in which a protection from abuse order requires firearms to be relinquished to law enforcement.
19. Requirement that, in all cases in which a protection from abuse order requires firearms to be relinquished to law enforcement, a notice of relinquishment with the court that issued the order be filed within one business day of the order being served, and notification to a relevant law enforcement agency in any other jurisdiction where a defendant reports firearms to be located.
20. Recognition that a person who obtains a protection from abuse order cannot violate the order regardless of any action taken by that person.
21. A requirement to enforce validated protection from abuse orders from other states and tribal courts pursuant to Article IV, Section 1 of the United States Constitution.
22. Procedures to ensure that a victim receives notification of the defendant’s release on bail.
23. Procedures for the collection of information regarding the defendant relevant to the domestic abuse investigation and a process to relay this information to a bail commissioner before a bail determination is made.
24. Procedures for the safe retrieval of personal property belonging to the victim or the defendant.
25. Requirement that an agency conduct a review of its compliance with all applicable provisions of this policy in the event that a victim of domestic abuse who resided in the agency’s jurisdiction is killed or seriously injured during the time that any temporary or permanent protection from abuse order was in effect or if there had been past agency involvement related to interactions between the perpetrator and the victim.
26. A provision that the agency shall provide a copy of the incident report or intelligence or investigative record information to the local domestic violence resource center for all calls involving domestic abuse, as permitted by 16 M.R.S. §806(4), unless withholding the investigative record information is reasonably necessary to protect against the harms outlined in 16 M.R.S. § 804.
27. A requirement that officers comply with their agency policy.

There is no anticipated fiscal impact.

PUBLIC HEARING: January 5, 2024 at 9:00 am, Maine Criminal Justice Academy, 15 Oak Grove Road, Vassalboro, ME 04989, room B165.

COMMENT DEADLINE: January 15, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Assistant Director Lincoln Ryder, Maine Criminal Justice Academy, 15 Oak Grove Road, Vassalboro, ME 04989. Phone: 207-877-8008, Fax: 207-877-8027. Email: Lincoln.E.Ryder@maine.gov

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

STATUTORY AUTHORITY FOR THIS RULE: 25 M.R.S §§ 2803-A(18), 2803-B(1)(D) and 2803-B(2)

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Lincoln.E.Ryder@maine.gov

AGENCY: **02-029 -** Department of Professional and Financial Regulation, **Bureau of Financial Institutions**

CHAPTER NUMBER AND TITLE: **Ch. 128,** (Regulation #28) – Loans to One Borrower Limitations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P265**

DETAILED SUMMARY:This rule amends current Chapter 128 (Regulation # 28) Loans to One Borrower Limitations, last promulgated January 21, 2013. The purpose of this amendment is to update Reg. 28’s definition of “Total capital and surplus” so that it is consistent with the calculation of the Federal Deposit Insurance Corporation’s Community Bank Leverage Ratio (CBLR) as found in 12 C.F.R. Part 324. The amendment accommodates those financial institutions using CBLR that are no longer required to calculate Tier 2 capital. Previously, the definition of Total Capital and Surplus contemplated only those financial institutions calculating both Tier 1 and Tier 2 capital. The change also incorporates a definition of Adjusted Allowance for Credit Losses, which is part of the Current Expected Credit Losses methodology found in GAAP and used by financial institutions. In addition, the amendment also adds explanatory language to the Conversion Factor Matrix Method used for calculating credit exposure from derivatives. The explanatory language will more closely align the regulation with the language found in the Conversion Factor Matrix Method found in federal law at 12 C.F.R. § 32.9. The Bureau has determined that these changes will be useful for financial institutions utilizing modern approaches to capital calculations, including those that utilize the CBLR Framework.

PUBLIC HEARING: None expected.

COMMENT DEADLINE: January 12, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: David Gordon Laurendeau, Attorney, Bureau of Financial Institutions, 36 State House Station, Augusta, ME 04333-0036. Telephone: 207–624–8574. Fax: 207–624–8590. Email: David.G.Laurendeau@maine.gov

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

STATUTORY AUTHORITY FOR THIS RULE: 9-B M.R.S. §§ 215, 439-A(5)

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

AGENCY WEBSITE: <https://www.maine.gov/pfr/financialinstitutions/>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: David.G.Laurendeau@maine.gov

AGENCY: **13-188 - Department of Marine Resources**

CHAPTER NUMBER AND TITLE: **Ch. 40,** Smelt Regulations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P266**

BRIEF SUMMARY: This proposed rule-making reorganizes and clarifies existing regulations pertaining to fishing for smelt in Zones 1, 2, and 3. Regulations in Zone 2 and Zone 3 are unchanged, but rewritten for greater clarity and consistency. In Zone 1, the regulation proposes to extend the period of time during which smelt fishing may occur prior to the formation of ice from October 1 to December 31 to October 1 to January 31. All other management measures in Zone 1 remain unchanged. A clarification is provided that fishing for smelts in Zone 3 using gill nets or bag nets requires a commercial pelagic and anadromous license.

PUBLIC HEARING: None scheduled

COMMENT DEADLINE: January 12, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Deirdre Gilbert, DMR, 21 State House Station, Augusta, Maine 04333-0021. Email: dmr.rulemaking@maine.gov

Telephone: 207-624-6553. Fax: 207-624-6024. TTY: 207-624-6500 (Deaf/Hard of Hearing). Hearing facilities: If you require accommodations due to disability, please contact 207-624-6553.

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

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS 6171

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

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 24,** Implementing the Maine EMS Stabilization Program

ADOPTED RULE NUMBER: **2023-246** *(Emergency)*

CONCISE SUMMARY: The Emergency Medical Service’s Board is adopting an Emergency Rule to implement procedures for allocating stabilization funds totaling $12,000,000 to emergency medical services (hereafter “EMS”) entities created by 32 M.R.S. §98, which are intended to provide financial assistance to EMS entities at immediate risk of failing and leaving their communities without access to adequate emergency medical services. This emergency rule provides:

* Eligibility criteria
* Allocation algorithms
* The maximum and minimum funding allocations based upon service type (transporting ground ambulance or nontransporting ground ambulance services)
* The evaluation process for applications received
* The appeal process for application determinations
* Requirements and criteria for use of funds
* Identification of unauthorized use of funds
* Reporting requirements
* Delegation of authority to the Director of Maine EMS to enter into agreements with qualified applicants for the disbursement of stabilization funds totaling no more than $200,000 for any eligible EMS entities

EFFECTIVE DATE: December 13, 2023

AGENCY CONTACT PERSON: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152. Telephone: 207-626-3864. TTY: 207-287-3659. Fax: 207-287-6251. Email: Jason.J.Cooney@maine.gov
AGENCY WEBSITE: <https://www.maine.gov/ems/>

AGENCY: **12-150** **-** Department of Labor, **Division for the Blind and Visually Impaired**

CHAPTER NUMBER AND TITLE: **Ch. 15,** Rules Governing the Business Enterprise Program

ADOPTED RULE NUMBER: **2023-247**

CONCISE SUMMARY: This chapter outlines the procedures and standards governing the licensing by the Division for the Blind and Visually Impaired of blind persons as vending facility managers, pursuant to Title 34 CFR Section 395 and 26 M.R.S.A. § 1418-F to 1418-M. Rule changes include updates to definitions related to the Business Enterprise Program (BEP). Rules also updated preferences for Blind individuals consistent with the Federal Randolph Sheppard Act and BEP laws. Duties, responsibilities, roles and opportunities of managers are expanded and clarified. This rule change is being done as a repeal and replace.

EFFECTIVE DATE: December 13, 2023

AGENCY CONTACT PERSON/RULE-MAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, ME 0433-0054. TELEPHONE: 207-626-6232. Email: Isaac.H.Gingras@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/rehab/dbvi/index.shtml>

AGENCY: **90-351 - Workers’ Compensation Board**

CHAPTER NUMBER AND TITLE: **Ch. 4,** Independent Medical Examiner

ADOPTED RULE NUMBER: **2023-248**

CONCISE SUMMARY:This rule adds an additional performance criteria for independent medical examiners which requires examiners that examiners provide independent, impartial, and objective medical findings in cases assigned to them.

EFFECTIVE DATE: December 16, 2023

AGENCY CONTACT PERSON/RULE-MAKING LIAISON: Richard Hewes, Workers’ Compensation Board, 27 State House Station, Augusta, ME 04333-0027, Phone: 207-287-7086, Fax: 207-287-7198 (fax). Email: Richard.Hewes@maine.gov
AGENCY WEBSITE:  [www.maine.gov/wcb](http://www.maine.gov/wcb)