**State of Maine: Notice of Agency Rulemaking – December 21, 2022**

**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: **29-250** - Secretary of State (SOS), **Bureau of Motor Vehicles (BMV)**

CHAPTER NUMBER AND TITLE: **Ch. 173** *(New)*, Rules for the Sale, Purchase, Removal, Transport, and Disposal of Catalytic Converters

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P227**

**BRIEF SUMMARY**: This rule establishes the requirements for the sale, purchase, removal, and transport of catalytic converters. The rule sets forth required marking methods, pertinent information to marking, and reporting requirements to be utilized by licensed recyclers, scrap metal processors, new and used car dealers, as well as private individuals.

**DETAILED SUMMARY**: This rule establishes the requirements for the sale, purchase, removal, and transport of catalytic converters. The rule sets forth required marking methods, pertinent information to marking, and reporting requirements to be utilized by licensed recyclers, scrap metal processors, new and used car dealers, as well as private individuals.

More specifically, this rule implements 29-A MRS §1113 subsection 14, which requires the Secretary of State to set forth a process for an individual to request a vehicle identification number for a catalytic converter be assigned for a catalytic converter whose vehicle identification number cannot be identified or that the catalytic converter is too damaged to mark in a manner that is permanent and legible.

PUBLIC HEARING: January 13, 2023 - 10:00 a.m., Bureau of Motor Vehicles - Main Office, Executive Conference Room - 2nd Floor, 101 Hospital Street, Augusta, ME 04333.

COMMENT DEADLINE: January 23, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Joann Bautista, Bureau of Motor Vehicles, 29 State House Station, Augusta, ME 04333. Telephone: (207) 441-4416. Email: Joann.Bautista@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 29-A MRS §1113 subsection 14

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/sos/bmv/>.

BMV RULEMAKING LIAISON: Tina.B.Corkum@Maine.gov.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 506** *(New)*, Eligibility for Disability Retirement Benefits

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P228**

BRIEF SUMMARY: This proposed new rule sets forth the standards and processes for determining eligibility for disability retirement benefits. It (1) establishes applicable definitions; (2) establishes standards for initial eligibility, use of a medical review service provider or independent medical examination, determination of inability to perform essential functions of the position and application of disabled veteran presumption; and (3) establishes the process by which a disability retiree may be reviewed for continuing eligibility.

CHAPTER NUMBER AND TITLE: **Ch. 507** *(Repeal)*, Determination of Inability to Engage in Substantially Gainful Activity

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P229**

BRIEF SUMMARY: This rule specifies the standards and definitions to be applied in determining under 5 MRS §§ 17907(2)(B), 17929(2)(B)(1), 18507(2)(B) and 18529(2)(B)(1) whether a disability retirement recipient is unable to engage in any substantially gainful activity. The proposal is to repeal the rule since its provisions have been included in the proposed new disability rule (Ch. 506).

CHAPTER NUMBER AND TITLE: **Ch. 509** *(Repeal)*, Determination of Inability to Perform the Essential Functions of the Employment Position

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P230**

BRIEF SUMMARY: This rule specifies the standard and definitions to be applied under 5 MRS §§ 17921 and 18521 in determining whether a disability applicant is unable to perform the functions of the employment position with reasonable accommodation. The proposal is to repeal the rule since its provisions have been included in the proposed new disability rule (Ch. 506).

CHAPTER NUMBER AND TITLE: **Ch. 510**, Reduction of Disability Retirement Benefits because of Lump-Sum Settlements of Benefits payable under the Workers’ Compensation or Similar Law or the United States Social Security Act

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P231**

BRIEF SUMMARY: This rule sets forth the methodology by which disability retirement benefits are reduced when a recipient receives a lump-sum settlement of benefits under the workers’ compensation or similar law or the United States Social Security Act. The proposed amendments align the rule with current provisions in law for the offset of benefits for participating local district disability retirement benefit recipients.

CHAPTER NUMBER AND TITLE: **Ch. 511**, Standards for Actively Seeking Work

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P232**

BRIEF SUMMARY: This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work. The proposed amendment to the rule establishes a rebuttable presumption that the recipient has not been actively seeking work if no work has been secured within five years, which may be rebutted by a showing that the inability to secure work was out of the recipient’s control. The proposed amendment also establishes how the five year provision applies to individuals in the actively seeking work program on December 31, 2022. The proposed amendment also corrects a numbering format issue in the current rule.

CHAPTER NUMBER AND TITLE: **Ch. 702**, Appeals of Decisions of the Executive Director

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P233**

BRIEF SUMMARY: This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board. The proposed amendments update and clarify the appeals process, including: (1) how an appeal can be filed; (2) how employers can participate in an appeal; (3) when an appellant is entitled to receive the appeals packet; (4) when an appellant is entitled to an IME; (5) how appellants must be notified of an abandoned appeal; (6) how testimony may be provided; and (7) how long the CEO has to reconsider decisions. The proposed amendments also make non-substantive changes to the rule.

**PUBLIC HEARING**: January 12, 2023 - 11:00 a.m., Maine Public Employees Retirement System, 139 Capitol Street, Augusta, Maine

COMMENT DEADLINE: January 23, 2023

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: rulemaking@mainepers.org.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION . MAINEPERS RULEMAKING LIAISON: Kathy J. Morin, Director, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, P.O. Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: Kathy.Morin@MainePERS.org.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY CHAPTERS 506, 507, 509, 510, 511: 5 MRS §17103(4)

STATUTORY AUTHORITY FOR CHAPTER 702: 5 MRS §§ 9051-9064, 17103(4), 17106-A, 17106-B, 17451

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

MAINEPERS WEBSITE: <https://www.mainepers.org/>.

**ADOPTIONS**

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Policy and Procedures Manual – Adult: **Subsection 27.2**, Supervised Community Confinement

ADOPTED RULE NUMBER: **2022-239**

CONCISE SUMMARY: This rule fulfills the requirements of 34-A MRS §3036-A, as amended by Public Law 2021 Ch.376, entitled “An Act to Provide Pathways to Rehabilitation, Reentry and Reintegration.” In addition, the provisions in this rule establish the timeframes for when a resident of a Department of Corrections adult facility is eligible to apply for transfer to supervised community confinement, the application process, the criteria and process for determining whether a resident is approved for transfer, and requirements after transfer to supervised community confinement.

EFFECTIVE DATE: December 21, 2022

MDOC CONTACT PERSON / RULEMAKING LIAISON: Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, Maine 04333. Telephone: (207) 530-0983. Email: Mary.A.Lucia@Maine.gov.

WEBSITE: <https://www.maine.gov/corrections/>.

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Policy and Procedures Manual – Adult: **Subsection 27.3**, Community Transition

ADOPTED RULE NUMBER: **2022-240**

CONCISE SUMMARY: This rule changes the timeframe for when a resident of a Department of Corrections adult facility is eligible for a community transition program from two (2) years to no more than three (3) years prior to the resident’s current custody release date. In addition, provisions in this rule establishes the application process, the criteria and process for determining whether a resident is approved for a community transition program, and requirements while in the program.

EFFECTIVE DATE: December 21, 2022

MDOC CONTACT PERSON / RULEMAKING LIAISON: Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, Maine 04333. Telephone: (207) 530-0983. Email: Mary.A.Lucia@Maine.gov.

WEBSITE: <https://www.maine.gov/corrections/>.

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Policy and Procedures Manual – Adult: **Subsection 27.4**, Furlough Program

ADOPTED RULE NUMBER: **2022-241**

CONCISE SUMMARY: The Department adopts the Ch. 10 Subsection 27.4, Furlough Program rule, to change the timeframe for when a resident of a Department of Corrections adult facility is eligible for a furlough from two (2) years to no more than three (3) years prior to the resident’s current custody release date. In addition, provisions in this rule establishes the application process, the criteria and process for determining whether a resident is approved for furlough, and requirements while on a furlough.

EFFECTIVE DATE: December 21, 2022

MDOC CONTACT PERSON / RULEMAKING LIAISON: Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, Maine 04333. Telephone: (207) 530-0983. Email: Mary.A.Lucia@Maine.gov.

WEBSITE: <https://www.maine.gov/corrections/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 247**, Uniform Reporting System for Non-Claims Based Primary Care Payments and Other Supplemental Health Care Data Sets *(Routine Technical rule)*

ADOPTED RULE NUMBER: **2022-242**

CONCISE SUMMARY: The primary reason for this rulemaking change is for the MHDO Board to adopt the changes to 90-590 CMR Ch. 247, because of PL 2021 c. 603. Once the changes are adopted by the board the rule will align with the law.

Copies of this rule 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.

This rule will not have a fiscal impact on municipalities or counties, or any adverse economic impact on small businesses.

EFFECTIVE DATE: December 20, 2022

MHDO 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: **16-163** – Department of Public Safety (DPS), **Maine Emergency Medical Services (Maine EMS)**

**CHAPTER NUMBERS AND TITLES:**

**Ch. 2**, Definitions

**Ch. 5**, Personnel Licenses

**Ch. 5-B**, Emergency Medical Services Ambulance Operator Licenses

**Ch. 17**, Minimum Required Equipment Lists for Maine EMS Services and Regional EMS Radio Frequencies

**Ch. 22**, Emergency Medical Services Data

**Ch. 23**, Registry of Automated External Defibrillators

**ADOPTED RULE NUMBERS:** **2022-243** *to* **248**

**CONCISE SUMMARY:**

**Ch. 2**, Definitions

 a. Adds a definition for an “Emergency Medical Services Ambulance Operator”, and

 b. Adds a statement regarding lay person administration of naloxone hydrochloride in accordance with 22 MRS §2253, and who is not licensed under MRS 32-B §85.

**Ch. 5**, Personnel Licenses

 a. Moves the scope of practice reference from 2018 to 2019.

 b. Adds a requirement that a licensee must complete the most recent protocol update prior to providing emergency medical treatment.

 c. Moves patient care reporting requirements to Ch. 22.

 d. Allows CEH to be accepted from the current license period, or the last two years, whichever is greater.

 e. Moves a two-year license cycle to begin on November 1, 2023, as opposed to November 1, 2024.

 f. Clarifies some of the language regarding the audit process.

 g. Removes the continued competency verification language.

 h. Adds additional language to the Duty to report section of the rule.

**Ch. 5-B**, Emergency Medical Services Ambulance Operator Licenses

 a. This is a new Ch. to establish requirements for individuals to obtain licensure as an Emergency Medical Services Ambulance Operator.

**Ch. 17**, Minimum Required Equipment Lists for Maine EMS Services and Regional EMS Radio Frequencies

 a. Brings the rule into closer alignment with the Maine EMS Pre-Hospital Treatment Protocols.

 b. Makes the equipment list the “minimum” equipment required.

**Ch. 22**, Emergency Medical Services Data

 a. Establishes rules, required by statute, to allow Maine EMS to collect outcome data from Hospitals for patients receiving emergency medical treatment.

 b. Moves patient care reporting requirements from chapters three and five to this chapter for EMS clinicians and EMS services.

 c. Requires all entities to use the state provided software for patient care reporting.

**Ch. 23**, Registry of Automated External Defibrillators

 a. This chapter is required by statute.

 b. This chapter establishes the rules by which Maine EMS will operate a registry of automated external defibrillators.

**EFFECTIVE DATE: December 24, 2022**

EMS CONTACT PERSON / RULEMAKING LIAISON: Jason A. Oko, Maine Emergency Medical Services, 152 State House Station, Augusta, ME 04333. Telephone: (207) 626-3863. Email: Jason.A.Oko@Maine.gov.

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