**State of Maine: Notice of Agency Rulemaking – April 22, 2020**

**PROPOSALS**

AGENCY: **12-170** – Department of Labor (DOL), **Bureau of Labor Standards (BLS)**

CHAPTER NUMBER AND TITLE: **Ch. 18**, Rules Governing Earned Paid Leave

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P075** *(comment period extended)*

**BRIEF SUMMARY**: The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637.

**DETAILED SUMMARY:** The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637. This rule explains that the obligation for earned paid leave applies to employers that employ more than 10 employees in employment as defined by the *Maine Employment Security Act* for more than 120 days in any calendar year. The rule explains the coverage of the law, to include full-time, part-time and per diem workers. The rule explains the exceptions, such as employees who work in a seasonal industry for an employer registered as a seasonal employer with a Bureau of Unemployment Compensation, and employees covered by a collective bargaining agreement on January 1, 20121. Covered employers shall permit each employee to accrue earned paid leave based on the employee's base rate of pay as defined by existing law, 26 MRS §664(3). Unused hours of earned paid leave roll over to the following year of employment, but hours are only required to continue to accrue up to forty hours in the current year of employment. The balance of earned paid leave at the separation of employment is governed by the employer’s established practice in accordance with existing law, 26 MRS §626. An employer may require up to four weeks’ notice of an intention to use earned leave, but notice is not required for an emergency, illness or other sudden necessity if advance notice is not feasible. Employees may take leave in increments of at least one hour. The employer cannot require the employee to use earned paid leave when the employee closes the business, cancels a shift or otherwise causes the employee to be unable to perform their job. An employer shall not deny an employee the right to use earned paid leave, and such denial or other violation is subject to a penalty.

**NEW COMMENT DEADLINE**: May 27, 2020. *The public comment period has been extended based on feedback from interested parties.*

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DOL RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Telephone: (207) 626-6232. Email: Isaac.H.Gingras@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: none

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §§ 42, 637

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

AGENCY WEBSITE: http://www.maine.gov/labor .

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

CHAPTER NUMBER AND TITLE: **Ch. 24**, Licensed Guides

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P079**

BRIEF SUMMARY: The Department of Inland Fisheries and Wildlife is proposing to amend rules as they pertain to licensed guides to include the following: updates based on statutory requirements for criminal background check completion prior to applying and renewing; expand on standards of competency and ethics; update the application and testing process to allow a person to complete the oral and written exams in one day, including allowing a person to continue testing in the three portions of the oral exam even after failing one of them; clarification that for all classifications a guide can conduct over-night camping trips in conjunction with the activities their license classification allows them to guide for; when applying, a higher standard of “field experience” will be required by verifying a minimum of 100 hours within the past 4 years of field experience, training, job shadowing and/or apprenticeship. If adopted, anyone testing for hunting or fishing classifications would also have the ability to test for a recreational classification by paying the $100 exam fee for each classification beginning January 1, 2021. Please contact the agency contact person for a complete copy of the proposed rule.

PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: May 22, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov .

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

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 10104, 12851

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:

IFW WEBSITE: www.maine.gov/ifw .

**ADOPTIONS**

AGENCY: **10-148** - Department of Health and Human Services (DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 21**, Rules for the Provision of Room and Board Payments for Residential Programs Serving Children

ADOPTED RULE NUMBER: **2020-092** *(Emergency adoption, major substantive)*

CONCISE SUMMARY: This emergency major substantive rule establishes a new, increased rate of $109.00 per occupied bed day that the Department pays to children's PNMIs governed by Appendix D of 10-144 CMR ch. 101 (the *MaineCare Benefits Manual*) ch. II and Ill section 97 as a result of providers' increased costs associated with the COVID-19 corona virus pandemic. The Department will pay the new $109.00 per occupied bed day rate effective March 1, 2020 until May 31, 2020.

EFFECTIVE DATE: April 10, 2020

OCFS CONTACT PERSON: Debra White, Department of Health and Human Services, Office of Child and Family Services, 2 Anthony Avenue – 11 State House Station, Augusta, ME 04330. Telephone: (207) 624-7968. Email: Debra.White@Maine.gov .

OCFS WEBSITE: http://www.maine.gov/dhhs/ocfs/ .

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

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

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

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

ADOPTED RULE NUMBER: **2020-093** *(Emergency)*

CONCISE SUMMARY: This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 1729(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work. The current rule requires that a disability retirement benefit recipient who is found to be able to engage in substantially gainful activity must actively seek work. The amendment temporarily suspends that requirement due to the COVID-19 crisis for the period starting March 1, 2020.

EFFECTIVE DATE: April 14, 2020

MAINEPERS CONTACT PERSON / RULEMAKING LIAISON: Kathy J. Morin, Manager, 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 .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 601**, Group Life Insurance

ADOPTED RULE NUMBER: **2020-094** *(Emergency)*

CONCISE SUMMARY: This rule sets out the categories of employees eligible to participate in the Group Life Insurance Program administered by the Maine Public Employees Retirement System, and other regulations relating to the Program. The current rule requires a lapse of insurance coverage when insurance premiums are not timely paid during a period of lay-off or unpaid leave of absence. The amendment provides that, commencing January 1, 2020, and in response to the COVID-19 crisis, which is likely to result in an increased number of participants in unpaid status who have not received notice of the need to pay premiums or who are temporarily unable to pay premiums due to health or financial reasons, coverage does not lapse as long as premiums, plus regular interest, are paid within 60 days after returning to paid status. The amendment also provides that, in the event of the participant's death within the 60-day period and prior to the payment of all premiums due, the remaining amount due is deducted from any benefit payments.

EFFECTIVE DATE: April 14, 2020

MAINEPERS CONTACT PERSON / RULEMAKING LIAISON: Kathy J. Morin, Manager, 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 .

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

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

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

ADOPTED RULE NUMBER: **2020-095** *(Emergency)*

CONCISE SUMMARY: This rule sets out the process for appeals of decisions of the Executive Director 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 current rule requires that non-expert witnesses in an appeal provide testimony orally before the hearing officer. The amendment requires that all hearings will be conducted using audio or video conferencing. During the COVID-19 crisis, social distancing is required or encouraged to prevent spread of the virus. Conducting hearings remotely will help with this effort and to protect the health of hearing participants.

EFFECTIVE DATE: April 14, 2020

MAINEPERS CONTACT PERSON / RULEMAKING LIAISON: Kathy J. Morin, Manager, 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 .

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

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 319** *(New)*, Criteria to Exclude Small Transmission Projects and Distribution Projects from Investigation by the Nonwires Alternative Coordinator

ADOPTED RULE NUMBER: **2020-096** *(Emergency)*

CONCISE SUMMARY: The Public Utilities Commission adopts an emergency rule, ch. 319, pursuant to 5 MRS §8054 to implement recently enacted legislation, Public Law 219 ch. 298. Emergency rules may be effective for up to 90 days. Accordingly, the Commission will complete a rulemaking process regarding ch. 319 within that timeframe.

EFFECTIVE DATE: April 15, 2020

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie Waterbury, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov .

MPUC WEBSITE: http://www.maine.gov/mpuc/ .

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

CHAPTER NUMBER AND TITLE: **Ch. 75**, Protected Resources (Gear Marking Exception)

ADOPTEDRULENUMBER: **2020-097**

CONCISE SUMMARY: This rule creates an exception to current requirements to mark the buoy lines for trap/pot gear with either three or four purple marks, depending on where the gear is fished. Buoy lines of 100 feet or less in length would be required to have only two purple marks, one of 36 inches in the top two fathom of the line, and one of 12 inches at the bottom of the line.

EFFECTIVE DATE: April 21, 2020

DMR CONTACT PERSON: Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 633-9500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov .

DMR RULEMAKING WEBSITE: http://www.maine.gov/dmr/rulemaking/ .

DMR WEBSITE: http://www.maine.gov/dmr/ .

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