**State of Maine: Notice of Agency Rulemaking – May 3, 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.

**NOTICE**

AGENCY: **10-149**, **14-197 - Maine Department of Health and Human Services (DHHS)**

CHAPTER NUMBERS AND TITLES:

1. **14-197 CMR Ch. 11** (Consumer Directed Personal Assistance Services). REPEAL
2. **10-149 CMR Ch. 5 Section 63** (In-Home and Community Support services for Elderly and Other Adults). REPEAL
3. **10-149 CMR Ch. 5 Section 63** (Home Based Supports and Services for Older and Disabled Adults). REPLACES THE TWO REPEALED RULES
4. **10-149 CMR Ch. 5** (Introduction, Table of Contents, Rule History). AMEND

TYPE OF RULE: Routine Technical and Major Substantive

ADOPTED RULE NUMBERS: **2023-012, LR-2023-4, 5, 6**

CONCISE SUMMARY: DHHS has provisionally adopted/finally adopted the repeal of two rules: (1) 10-149 CMR Chapter 5 Section 63 (Section 63); and (2) 14-197 CMR Ch. 11 (Chapter 11). These two rules will be replaced with a new Section 63 rule, which has been provisionally adopted/finally adopted. As part of this rulemaking, DHHS also finally adopted an amendment to 10-149 CMR Chapter 5, Introduction, Table of Contents, Rule history.

Historically, Section 63 and Chapter 11 have both provided state-funded services to eligible adult Maine residents, allowing these individuals to remain in their homes and communities and out of institutional settings. For both programs, medical eligibility is established by a medical eligibility determination assessment, which is conducted by the DHHS, or its authorized entity, the assessing services agency (ASA). Covered services for both services may include the following: care coordination; consumer direction personal assistance services; transportation to authorized care plan activities; and personal emergency response systems.

To streamline DHHS’ state-funded home-based services, and as directed by the Legislature in Resolves 2011 Ch. 71, DHHS proposes to merge Chapter 11 and Section 63.

Section 63 and Chapter 11 rules contain both routine technical/major substantive rules provisions. In this rulemaking, DHHS adopts and/or provisionally adopts these rules with a prospective legal effective date of October 1, 2023. The current Chapter 11 and Section 63 rules will remain in effect through September 30, 2023. DHHS has asked the Legislature to approve the major substantive rule provisions to also have an October 1, 2023 legal effective date.

EFFECTIVE DATES: October 1, 2023

DHHS-OADS CONTACT PERSON / RULEMAKING LIAISON:

**10-149** *and* **14-197**: James Moorehead, Office of Aging and Disability Services, 11 State House Station, Augusta, ME 04333. Telephone: (207) 287-7057. Email: James.Moorhead@Maine.gov.

DHHS-OADS RULEMAKING WEBSITE: <https://www.maine.gov/dhhs/oads/about-us/policy-planning>.

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

DHHS RULEMAKING LIAISON, Emily A. Cathcart, DHHS, 11 State House Station, Augusta, ME 04333. Telephone: (207) 287-4252. Email: Emily.A.Cathcart@Maine.gov.

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

**PROPOSALS**

AGENCY: **02-333** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Licensure of Foresters**

CHAPTER NUMBERS AND TITLES:

**Ch. 70**, Qualifications for Forester License (amended)

**Ch. 70-A**, Licensure by Endorsement (new)

**Ch. 100**, Code of Ethics (repeal and replace)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2023-P031, P032, P033** *(3rd publication)*

BRIEF SUMMARY: Rules are being readvertised because requests from more than 5 people were received for a public hearing.

**Ch. 70, QUALIFICATIONS FOR FORESTER LICENSE**: The principal reason for this proposed rulemaking is to align the rule with 32 MRS §5516(2)(B) regarding the pathway for those applicants applying on the basis of a license in another jurisdiction.

**Ch. 70-A, LICENSURE BY ENDORSEMENT**: The principal reason for this proposed rulemaking is to propose a rule to implement a pathway for licensure by Endorsement pursuant to Public Law 2021 Ch. 167, *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions*.

**Ch. 100, CODE OF ETHICS**: The Board is proposing to repeal and replace Ch. 100 with a chapter that clarifies terminology and definitions in numerous sections. Additionally, forester roles are described as well as when a written agreement is required and what the agreement must include.

*For a copy of the proposed rules and related documents, please direct your request to the contact person for this filing or visit:* [*https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters*](https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters) *and scroll down to “What’s New.”*

PUBLIC HEARING: Thursday, May 25, 2023 at 221 State Street, Augusta, Maine at 9:00 a.m. *Members of the public will also have the opportunity to attend and participate via remote means. Instructions on remote access and a link will be posted on the board’s webpage in advance of the public hearing at*[*https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters/home/board-meeting-information*](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fprofessionallicensing%2Fprofessions%2Fboard-licensure-foresters%2Fhome%2Fboard-meeting-information&data=05%7C01%7CCatherine.Pendergast%40maine.gov%7C22ff2b5b9e3b4766445708db2f875ba7%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638156030618041337%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=HZ9T8I04ZtA%2FPjfnF4E1akrPoJabCmeMsZB9%2BzUO8Os%3D&reserved=0).

COMMENT DEADLINE: Monday, June 5, 2023 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine E. Pendergast, Foresters’ Board, 35 State House Station, Augusta, ME 04333-0035. Telephone: (207) 624-8518. TTY: Maine relay 711. Email: Catherine.Pendergast@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N.A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 5506, 5516; 10 MRS §8003-H.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters>.

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

AGENCY: **12-180** – Department of Labor (DOL), **Maine Labor Relations Board (MLRB)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, General Rules

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P087**

BRIEF SUMMARY: The Maine Labor Relations Board is proposing to amend Ch. 10 of its rules to make minor changes to improve clarity and consistency regarding service and proof of service requirements for a prohibited practice complaint; the process for a party to request an extension of time; when service of a document may be effected exclusively by email; hand delivery of documents to the Board’s office; individuals to whom electronic filings with the Board should not be addressed; and other non-substantive changes. Full text of the proposed rule changes is available on the MLRB website at: <https://www.maine.gov/mlrb>.

PUBLIC HEARING: May 22, 2023 - 9:00 a.m., Frances Perkins Room, Maine Department of Labor, 45 Commerce Drive, Augusta

COMMENT DEADLINE: June 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Henry D. Fouts, Board Counsel, Maine Labor Relations Board, 90 State House Station, Augusta, Maine 04330-0090. Telephone: (207) 287-2015. Email: Henry.Fouts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §968(3)

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

MLRB WEBSITE: <https://www.maine.gov/mlrb>.

MLRB RULEMAKING LIAISON: Neil.Daly@Maine.gov.

AGENCY: **12-180** – Department of Labor (DOL), **Maine Labor Relations Board (MLRB)**

CHAPTER NUMBER AND TITLE: **Ch. 11**, Bargaining Unit Composition and Representation Matters

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P088**

BRIEF SUMMARY: The Maine Labor Relations Board is proposing to amend Ch. 11 of its rules to make minor changes to improve clarity and consistency. Full text of the proposed rule changes is available on the MLRB website at: <https://www.maine.gov/mlrb>.

PUBLIC HEARING: May 22, 2023 - 9:00 a.m., Frances Perkins Room, Maine Department of Labor, 45 Commerce Drive, Augusta

COMMENT DEADLINE: June 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Henry D. Fouts, Board Counsel, Maine Labor Relations Board, 90 State House Station, Augusta, Maine 04330-0090. Telephone: (207) 287-2015. Email: Henry.Fouts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §968(3)

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

MLRB WEBSITE: <https://www.maine.gov/mlrb>.

MLRB RULEMAKING LIAISON: Neil.Daly@Maine.gov.

AGENCY: **12-180** – Department of Labor (DOL), **Maine Labor Relations Board (MLRB)**

CHAPTER NUMBER AND TITLE: **Ch. 12**, Prohibited Practice Complaints; Interpretive Rulings

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P089**

BRIEF SUMMARY: The Maine Labor Relations Board is proposing to amend Chapter 12 of its rules to make minor changes to improve clarity and consistency including deleting reference to multiple hard copies of the prohibited practice complaint and relevant collective bargaining agreement being filed, to reflect electronic filing; clarifying prohibited practice complaint service requirements and when a prohibited practice complaint may be amended; allowing notification of prehearing conferences and hearings to parties by regular mail instead of by certified or registered mail; allowing the executive director or prehearing officer to permit electronic documentary evidence in lieu of physical copies; allowing the executive director to rule on requests to defer to arbitration, subject to Board review, and clarifying that oral argument concerning deferral to arbitration may be permitted at the discretion of the executive director or prehearing officer; allowing the Board to meet remotely when determining whether to grant or deny a motion to defer to arbitration; and other non-substantive changes. Full text of the proposed rule changes is available on the MLRB website at: <https://www.maine.gov/mlrb>.

PUBLIC HEARING: May 22, 2023 - 9:00 a.m., Frances Perkins Room, Maine Department of Labor, 45 Commerce Drive, Augusta

COMMENT DEADLINE: June 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Henry D. Fouts, Board Counsel, Maine Labor Relations Board, 90 State House Station, Augusta, Maine 04330-0090. Telephone: (207) 287-2015. Email: Henry.Fouts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §968(3)

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

MLRB WEBSITE: <https://www.maine.gov/mlrb>.

MLRB RULEMAKING LIAISON: Neil.Daly@Maine.gov.

AGENCY: **12-186** – Department of Labor (DOL), **State Board of Arbitration and Conciliation (BAC)**

CHAPTER NUMBER AND TITLE: **Ch. 1**, General Rules

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P090**

BRIEF SUMMARY: The State Board of Arbitration and Conciliation is proposing to amend Ch. 1 of its rules to require the electronic filing, by email to sbac@maine.gov, of all correspondence and any other documents filed with the Board. Parties who are unable to submit documents electronically may submit documents by mail, hand delivery or delivery service if the party certifies it was unable to submit the documents electronically and the Board, in its discretion, accepts the filing. Other proposed changes are minor and non-substantive. Full text of the proposed rule changes is available on the Maine Labor Relations Board website at: <https://www.maine.gov/mlrb>.

PUBLIC HEARING: May 22, 2023, 9:00 a.m., Frances Perkins Room, Maine Department of Labor, 45 Commerce Drive, Augusta

COMMENT DEADLINE: June 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Henry D. Fouts, Board Counsel, Maine Labor Relations Board, 90 State House Station, Augusta, Maine 04330-0090. Telephone: (207) 287-2015. Email: Henry.Fouts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §931

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

BOARD WEBSITE: <https://www.maine.gov/mlrb/about/board-of-arbitration-and-conciliation>.

BOARD RULEMAKING LIAISON: Neil.Daly@Maine.gov.

AGENCY: **12-186** – Department of Labor (DOL), **State Board of Arbitration and Conciliation (BAC)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Logging Dispute Resolution Board Rules

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P091**

BRIEF SUMMARY: The State Board of Arbitration and Conciliation is proposing procedural rules to govern the new Logging Dispute Resolution Board established in 26 MRS Ch. 47. Full text of the proposed rules is available on the Maine Labor Relations Board website at: <https://www.maine.gov/mlrb>.

PUBLIC HEARING: May 22, 2023 - 9:00 a.m., Frances Perkins Room, Maine Department of Labor, 45 Commerce Drive, Augusta

COMMENT DEADLINE: June 1, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Henry D. Fouts, Board Counsel, Maine Labor Relations Board, 90 State House Station, Augusta, Maine 04330-0090. Telephone: (207) 287-2015. Email: Henry.Fouts@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §§ 931, 3707

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: 26 MRS §3701 *et seq*.

AGENCY WEBSITE: <https://www.maine.gov/mlrb/about/logging-dispute-board>.

BOARD RULEMAKING LIAISON: Neil.Daly@Maine.gov.

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 24**, Home Energy Assistance Program

PROPOSED RULE NUMBER: **2023-P092**

BRIEF SUMMARY: This replacement rule repeals and replaces in its entirety the current *Home Energy Assistance Program Rule*. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Supplemental Benefits, weatherization, heat pumps, and heating system repair and replacement funds to low-income households in the State of Maine. This replacement rule: establishes a new annual end date for taking HEAP applications; provides clarity that providing Program services is contingent upon availability of HEAP funding; establishes the Design Heat Load Calculation as the sole method of determining a Benefit; allows Benefit levels to be determined using the Home Energy type requested by the Primary Applicant; and provides Payments of Benefits directly to Primary Applicants who receive their Benefit for firewood.

A copy of the proposed replacement rule may be found at <https://www.mainehousing.org/about/rules>.

PUBLIC HEARING: A public hearing will be held on Tuesday, May 23, 2023 at 9:30 a.m. at Maine State Housing Authority, 26 Edison Drive, Augusta, Maine. *To listen or testify virtually, please contact the Board Administrator no later than 5:00 p.m. on Thursday, May 18, 2023 at MaineHousing, 26 Edison Drive, Augusta, Maine 04330-6046; (207) 626-4600 (voice); 1-800-452-4668 (voice in state only); or 711 (Maine Relay) or via e-mail:* *BoardAdmin@mainehousing.org**.*

*Upon sufficient notice, appropriate communications auxiliary aids and services will be provided to persons with disabilities and persons with limited English proficiency.*

COMMENT DEADLINE: Friday, June 2, 2023 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / AGENCY RULEMAKING LIAISON: Ashley Janotta, Chief Counsel, Maine State Housing Authority, State House Station #89, 26 Edison Drive, Augusta, Maine 04330-6046. Telephone: (207) 626-4600, (800) 452-4668 (voice in state only) or Maine Relay 711. Email: ajanotta@mainehousing.org.

Upon sufficient notice, this notice and the proposed rule will be made available in alternative formats for persons with disabilities and in alternative languages for persons with limited English proficiency.

IMPACT ON MUNICIPALITIES OR COUNTIES: None.

STATUTORY AUTHORITY FOR THIS RULE: 30-A MRS §§ 4722(1)(W), 4741 (1) and (15), and 4991 *et seq.*; 42 USCA §§ 8621 *et seq.*

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same as above.

MAINEHOUSING WEBSITE: <https://www.mainehousing.org/>.

**ADOPTIONS**

AGENCY: **18-125** - Department of Administrative & Financial Services (DAFS), **Bureau of Revenue Services (Maine Revenue Services – MRS)**

**CHAPTER NUMBER AND TITLE:** **Ch. 102**, Electronic Funds Transfer (EFT)

ADOPTED RULE NUMBER: **2023-061**

CONCISE SUMMARY: Maine Revenue Services is amending Rule 102 ("Electronic Funds Transfer (EFT)") to reflect the current EFT methods available for payment of Maine taxes and to make other technical updates. Specifically, the rule removes references to the ACH Teledebit payment method, which has been discontinued, and adds references to the Maine Tax Portal ("MTP").

**CHAPTER NUMBER AND TITLE:** **Ch. 202**, Tree Growth Tax Law Valuations – 2023

ADOPTED RULE NUMBER: **2023-062**

CONCISE SUMMARY: Maine Revenue Services has repealed and replaced Rule 202 (Tree Growth Tax Law Valuations – 2023). The replaced rule provides updated valuation rates for each forest type by region.

**CHAPTER NUMBER AND TITLE:** **Ch. 805**, Composite Filing

ADOPTED RULE NUMBER: **2023-063**

CONCISE SUMMARY: Maine Revenue Services amends Rule 805 ("Composite Filing") to reflect how a federal partnership audit administrative adjustment request ("AAR") or final federal adjustment ("FFA") affects the filing of a composite return, and to make other technical updates.

**CHAPTER NUMBER AND TITLE:** **Ch. 808**, Corporate Income Tax Nexus

ADOPTED RULE NUMBER: **2023-064**

CONCISE SUMMARY: Maine Revenue Services amends Rule 808 ("Corporate Income Tax Nexus") to reflect recently enacted legislation that provides for an exemption to the standard nexus rules for certain out-of-state suppliers of spirits to the Bureau of Alcoholic Beverages and Lottery Operations ("BABLO"), and to make other technical updates.

**CHAPTER NUMBER AND TITLE:** **Ch. 810**, Maine Unitary Taxable Income, Combined Reports, and Tax Returns

ADOPTED RULE NUMBER: **2023-065**

CONCISE SUMMARY: Maine Revenue Services amends Rule 810 ("Maine Unitary Business Taxable Income, Combined Reports, and Tax Returns") to reflect recently enacted legislation that provides for an exemption to the standard nexus rules for certain out-of-state suppliers of spirits to the Bureau of Alcoholic Beverages and Lottery Operations ("BABLO"), and to make other technical updates.

**CHAPTER NUMBER AND TITLE:** **Ch. 812**, Credit for Educational Opportunity

ADOPTED RULE NUMBER: **2023-066**

CONCISE SUMMARY: Maine Revenue Services amends Rule 812 ("Credit for Educational Opportunity") to reflect recently enacted legislation that limits the program to tax years beginning before January 1, 2022, and to make other technical updates.

**CHAPTER NUMBER AND TITLE:** **Ch. 813**, Property Tax Fairness Credit

ADOPTED RULE NUMBER: **2023-067**

CONCISE SUMMARY: Maine Revenue Services amends Rule 813 ("Property Tax Fairness Credit") to reflect recently enacted legislation that provides for an additional income tax credit for veterans totally and permanently disabled, and to make other technical updates.

**EFFECTIVE DATE: May 3, 2023**

AGENCY CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333. Telephone: (207) 624-9712. Email: Alex.Weber@Maine.gov.

MRS WEBSITE: <https://www.maine.gov/revenue/>.